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Environmental Protection Agency (EPA): FY2016 Appropriations

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Summary

Enacted on December 18, 2015, Title II of Division G of the Consolidated Appropriations Act, 2016 (P.L. 114-113; H.R. 2029) provided \$8.14 billion for the Environmental Protection Agency (EPA) for FY2016. The act appropriated funding for the full fiscal year through September 30, 2016, for the 12 regular appropriations acts, including “Interior, Environment, and Related Agencies,” under which EPA is funded. The total FY2016 enacted appropriations of \$8.14 billion for EPA was the same as enacted for FY2015 but \$451.8 million (5.3%) below the President’s FY2016 request of \$8.59 billion. No regular appropriations acts for FY2016—including the Interior, Environment, and Related Agencies—were enacted prior to the start of the fiscal year. Instead, EPA and other federal departments and agencies operated under a continuing resolution (P.L. 114-53; H.R. 719) prior to the enactment of P.L. 114-113.

Total discretionary appropriations enacted for FY2016 for all federal departments and agencies were based on increased limits on discretionary spending enacted November 2, 2015, in the Bipartisan Budget Act of 2015 (P.L. 114-74; H.R. 1314). Prior to the increased spending limits per the Bipartisan Budget Act, the House Committee on Appropriations reported H.R. 2822 on June 18, 2015, for the Interior, Environment, and Related Agencies proposing \$7.42 billion for EPA for FY2016. The Senate Committee on Appropriations reported S. 1645 on June 23, 2015, proposing \$7.60 billion for EPA.

With the exception of the State and Tribal Assistance Grants (STAG) account, which represents almost 44% of the FY2016 total appropriations for EPA, the FY2016 appropriations were the same as the FY2015 enacted level for eight of the nine EPA appropriations accounts but were below the FY2016 requested levels for all nine accounts. The House and Senate committee-reported bills (H.R. 2822 and S. 1645) proposed decreases for all of the EPA appropriations accounts for FY2016 compared to the President’s request and were generally less than or equal to FY2015 enacted appropriations for the nine accounts. There were both increases and decreases enacted for FY2016 across the individual program activities funded within the nine EPA appropriations accounts when compared to the FY2016 requested and FY2015 enacted appropriations.

Congressional debate and hearings on EPA’s FY2016 appropriations focused significantly on federal financial assistance to states for wastewater and drinking water infrastructure projects, various categorical grants to states to support general implementation and enforcement of federal environmental programs as delegated to the states, funding for the agency’s implementation and research support for air pollution control regulations, EPA actions to address climate change and greenhouse gas (GHG) emissions, and funding for environmental remediation. Funding levels for several geographic-specific initiatives, including the Great Lakes Restoration Initiative and efforts to restore the Chesapeake Bay, also garnered congressional interest.

Additionally, similar to the debate regarding recent fiscal years appropriations for EPA, several recent and pending EPA regulatory actions received considerable attention during the consideration of EPA’s FY2016 appropriations—most notably those that address GHG emissions and the definition of “waters of the United States.” The general provisions in Title IV of Division G of P.L. 114-113 included provisions restricting the use of funds for certain EPA actions. Those provisions were similar to those contained in previous appropriations but represent only a subset of those included in the House and Senate committee-reported bills. Provisions included in P.L. 114-113 addressed EPA air quality regulation of livestock operations and reporting requirements for manure systems, use of U.S. iron and steel for drinking water infrastructure projects, and possible EPA regulation of lead in ammunition and fishing tackle. (EPA has not proposed such lead regulations.) Title IV of P.L. 114-113 also includes two provisions concerning the Great

Lakes—one regarding public notice requirements for a combined sewer overflow discharge to the Great Lakes and another to amend the Clean Water Act to establish and authorize \$300.0 million for the Great Lakes Restoration Initiative to carry out certain specified protection and restoration programs and projects.

This CRS report provides an overview of FY2016 enacted appropriations for EPA accounts and certain program activities specified in P.L. 114-113 compared to H.R. 2822 and S. 1645 as reported, the President's FY2016 request, and FY2015 enacted appropriations. The report also highlights issues associated with a subset of accounts and programs that were prominent in the debate on EPA's FY2016 appropriations during the 114th Congress.

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Introduction

P.L. 114-113 (H.R. 2029), the Consolidated Appropriations Act, 2016, was signed into law on December 18, 2015. The act included all 12 regular appropriations acts. P.L. 114-113 provided a total of \$8.14 billion for the Environmental Protection Agency (EPA) in Title II of Division G—Department of the Interior, Environment, and Related Agencies Appropriations Act, 2016. The total EPA appropriation for FY2016 was the same as enacted for FY2015 but \$451.8 million (5.3%) below the President’s FY2016 request of \$8.59 billion.

No regular Interior, Environment, and Related Agencies appropriations bills for FY2016 were passed by the House or Senate prior to the end of the fiscal year, although bills were reported in both chambers. The House Committee on Appropriations reported H.R. 2822 for the Interior, Environment, and Related Agencies on June 18, 2015, and proposed \$7.42 billion for EPA for FY2016. The Senate Committee on Appropriations reported S. 1645 on June 23, 2015, and proposed a total of \$7.60 billion for EPA.

Although both committees proposed decreases below the FY2016 request and the FY2015 enacted appropriations, some individual program activities funded within EPA’s appropriations accounts would have received increases or, in some cases, would have remained the same. The House and Senate bills were reported prior to the November 2, 2015, passage of the budget agreement, which increased discretionary spending limits.

Continued adherence to the discretionary spending limits codified in the Budget Control Act of 2011 (BCA; P.L. 112-25) as amended¹ for FY2016 was an issue of broad concern and debate.² The initial FY2016 budget resolution (S.Con.Res. 11, H.Rept. 114-96) and appropriations committees’ 302(b) allocations adhered to BCA discretionary spending limits codified at that time. As enacted November 2, 2015, the Bipartisan Budget Act of 2015 (P.L. 114-74; H.R. 1314), in part, raised both the nonsecurity (nondefense) and security (defense) statutory discretionary spending limits for FY2016 and FY2017. The allocation of funding for EPA and most other departments and agencies within the increased spending limits was left to the appropriations process.

This report provides a brief timeline of congressional action on EPA FY2016 appropriations, EPA funding background, and an overview of FY2016 funding amounts for each EPA account as enacted, proposed in the House and Senate committee-reported bills and contained in the President’s FY2016 budget request, and enacted for FY2015. The report also examines funding levels and relevant issues for selected EPA programs and activities within various accounts.

P.L. 114-113 and the Explanatory Statement accompanying the Consolidated Appropriations Act, 2016 (issued in the December 17, 2015, *Congressional Record*)³ are the primary sources of information presented in this report for the FY2016 enacted appropriations, the President’s FY2016 budget request, and the FY2015 enacted appropriations, unless otherwise specified.

¹ As amended, the BCA established, among other things, a statutory limit on discretionary spending through FY2021 and required a sequestration of budgetary resources if the President and Congress fail to enact legislation reducing the federal deficit by a specified date. For information on the BCA, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

² See CRS Report R44062, *Congressional Action on FY2016 Appropriations Measures*, by Jessica Tollestrup.

³ “Explanatory Statement” submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 No. 184-Book II and III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/content-detail.html>. See discussion regarding the EPA appropriations accounts in Book II under “Title II—Environmental Protection Agency,” of Division G beginning p. H10219 and the funding table beginning p. H10256.

Information regarding the House and Senate committee-reported bills is from their accompanying reports. Additional information presented in this report was obtained from the EPA's *FY2016 Justification of Appropriation Estimates for the Committee on Appropriations* (referred to throughout this report as the EPA FY2016 Congressional Justification),⁴ and the President's *Budget of the United States Government, Fiscal Year 2016*, issued by the Office of Management and Budget (OMB).⁵ With the exception of the historical funding (FY1976-present) presented in **Figure 2**, the enacted appropriations for prior fiscal years presented throughout this report have not been adjusted for inflation in order to maintain consistency with cited sources.

Appropriation issues are complex, and accordingly not all issues are summarized in this report.⁶ Further, the appropriations bills and accompanying committee reports⁷ identify funding levels for numerous programs, activities, and sub-activities for which the program details are beyond the scope of this report.

Status of Congressional Action

Table 1 summarizes the chronology of proposed and enacted appropriations for Interior, Environment, and Related Agencies FY2016 appropriations. Earlier in the 114th Congress, House and Senate appropriations and oversight committees held hearings on the President's FY2016 request for EPA (see **Appendix C**).

Table 1. Status of Interior, Environment, and Related Agencies Appropriations, FY2016

Subcommittee/Full Committee Markup		H. Comm. Reported	House Action	S. Comm. Reported	Senate Action	Public Law
House	Senate					
06/10/2015	06/16/2015	H.R. 2822	Floor	S. 1645	Placed on	P.L. 114-113
06/16/2015	06/18/2015	(H.Rept. 114-170) 06/18/15	consideration postponed 07/08/2015	(S.Rept. 114-70) 06/23/2015	Senate Legislative Calendar 06/23/2015	Div. G Title II 12/18/2015

Source: Prepared by CRS.

House and Senate Committee-Reported Bills

Title II of the Interior, Environment, and Related Agencies Appropriations Act, 2016—H.R. 2822 (H.Rept. 114-170), as reported June 18, 2015, by the House Committee on Appropriations—included \$7.42 billion for EPA for FY2016.⁸ The total as reported would have reduced funding

⁴ EPA's *FY2016 Justification of Appropriation Estimates for the Committee on Appropriations* and other related agency budget documents are available at <https://www.epa.gov/planandbudget/archive>.

⁵ The multi-volume set of the President's *Budget of the United States Government, Fiscal Year 2016*, is available at <https://www.gpo.gov/fdsys/browse/collectionGPO.action?collectionCode=BUDGET>.

⁶ OMB's compilation of FY2016 budget request documents (not including public budget database spreadsheets) totals more than 2,100 pages. EPA's FY2017 budget justification comprises nearly 1,200 pages. Both present an array of funding and programmatic proposals for congressional consideration.

⁷ The committee reports also generally provide specific direction to the agency in terms of how the funds are to be spent to implement a certain activity.

⁸ Since FY2006, Congress has funded EPA programs and activities within the Interior, Environment, and Related

for EPA by \$1.17 billion (13.6%) below the President's FY2016 request of \$8.59 billion and \$717.7 million (8.8%) below the FY2015 enacted appropriation of \$8.14 billion. In a June 23, 2015, Statement of Administration Policy, the Administration "strongly opposed" passage of H.R. 2822.⁹ The House debated H.R. 2822 on the floor beginning June 25, 2015, through July 8, 2015. Of the 166 amendments offered, 57 were agreed to as of July 8, 2015, including a number regarding EPA funding and regulatory actions. Consideration of the bill was postponed on July 8, 2015, pending an agreement on amendments concerning the display and sale of the Confederate flag at National Park Service units.¹⁰ No further action ensued.

The Senate Appropriations Committee's June 23, 2015, reported bill, S. 1645 (S.Rept. 114-70), included \$7.60 billion for EPA for FY2016, \$994.3 million (11.6%) below the FY2016 request and \$542.5 million (6.7%) less than the FY2015 enacted level. S. 1645 was placed on the Senate Legislative Calendar, but floor consideration had not been scheduled.

Continuing Resolution

Enacted September 30, 2015, P.L. 114-53 (H.R. 719), the Continuing Appropriations Act, 2016 (continuing resolution or CR), appropriated funds to EPA and other federal departments and agencies until December 11, 2015, or the enactment of appropriations subsequent to P.L. 114-53. Under the CR, most projects and program activities, including EPA's, were funded at FY2015 levels reduced by a 0.2108% across-the-board rescission, unless otherwise specified in the act.¹¹ No exceptions to the across-the-board rescission were specified for EPA in the CR. For the duration of the CR, FY2016 funding for EPA was under the authority and the terms and conditions for FY2015 as contained in the Interior, Environment, and Related Agencies Appropriations Act, 2015 (Division F of P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015).

Bipartisan Budget Act of 2015¹²

Consideration of the enacted FY2016 appropriations for EPA and other federal departments and agencies were subject to the higher limits on discretionary spending enacted November 2, 2015, in the Bipartisan Budget Act of 2015 (P.L. 114-74; H.R. 1314). The statute amended the Balanced Budget and Emergency Deficit Control Act of 1985 to increase the discretionary spending limits

Agencies appropriations. The 109th Congress moved EPA's funding from the jurisdiction of the House and Senate Appropriations Subcommittees on Veterans Affairs, Housing and Urban Development, and Independent Agencies to the then-newly established Interior, Environment, and Related Agencies Appropriations subcommittees beginning with the FY2006 appropriations. This change resulted from the abolition of the House and Senate Appropriations Subcommittees on Veterans Affairs, Housing and Urban Development, and Independent Agencies.

⁹ Office of Management Budget (OMB), "Statement of Administration Policy: H.R. 2822—Department of the Interior, Environment, and Related Agencies Appropriations Act, 2016," June 23, 2015, https://www.whitehouse.gov/sites/default/files/omb/legislative/sap/114/saphr2822r_20150623.pdf.

¹⁰ See CRS Insight IN10313, *Display of the Confederate Flag at Federal Cemeteries in the United States*, by Laura B. Comay and Scott D. Szymendera; and CRS Report R42757, *National Park Service: FY2016 Appropriations and Recent Trends*, by Laura B. Comay.

¹¹ CRs generally include provisions that are specific to certain agencies, accounts, or programs. These include provisions that designate exceptions to the formula and purpose for which any referenced funding is extended (referred to as "anomalies") and provisions that have the effect of creating new law or changing existing law (often used to renew expiring provisions of law). There are no specific anomalies for EPA. For other departments and agencies see CRS Report R44214, *Overview of the FY2016 Continuing Resolution (H.R. 719)*, by Jessica Tollestrup.

¹² See CRS Report R43933, *The Federal Budget: Overview and Issues for FY2016 and Beyond*, coordinated by Steven Maguire.

for FY2016 and FY2017 and revised procedures for implementing the sequester of direct spending. The new budget authority for FY2016 as specified in Section 101 of Title I was \$518.49 billion for the revised nonsecurity category and \$548.09 billion for the revised security category.¹³

FY2016 Budget Resolution¹⁴

Prior to the passage of the Bipartisan Budget Act of 2015, the House and Senate adopted the FY2016 concurrent budget resolution (S.Con.Res. 11, H.Rept. 114-96) on May 5, 2015. The concurrent resolution provided the initial framework for the consideration of the FY2016 appropriations prior to P.L. 114-74 (H.R. 1314). S.Con.Res. 11 also included budgetary levels for FY2017-FY2025. In this annual budget resolution that is intended to guide the annual appropriations process, EPA is included within Budget Function 300 for Natural Resources and Environment, along with the Department of the Interior and other agencies. The FY2016 budget resolution adhered to the discretionary spending limits codified as part of the BCA as amended.¹⁵ Continued adherence to the limits established under the BCA as amended for deliberation of the FY2016 appropriations was an issue of considerable concern and debate. Some Members urged consideration and passage of alternative legislation.

The conference agreement on the budget resolution for FY2016 included language¹⁶ proposed in the Senate version that addressed a number of EPA's regulatory activities. The findings contained in Section 6208 of Title VI, Subtitle B, in the concurrent resolution S.Con.Res. 11, "Policy Statement on Federal Regulatory Reform," included an expression of concerns with the regulatory cost of EPA rules with particular references to EPA's proposed rule to control carbon emissions from power plants. Title IV, Subtitle B, "Reserve Funds in the Senate," provides deficit-neutral and spending-neutral reserve funds¹⁷ for certain EPA activities such as the "reform" of environmental statutes, jurisdiction under the Clean Water Act (CWA), EPA regulations that would "reduce the reliability of the electricity grid," and regulation of carbon and greenhouse gas (GHG) emissions under the Clean Air Act (CAA).¹⁸ While such provisions in

¹³ For further information with regard to the negotiations surrounding this proposal, see Paul M. Krawzak and Tamar Hallerman, "Two-Year Budget Deal Would Boost Discretionary Spending \$80 Billion," *CQ News*, October 26, 2015; Kelsey Snell, "Boehner Gives Incoming Speaker Parting Gift with Budget Deal," *Washington Post*, October 27, 2015; and Ryan McCrimmon, "Administration Touts Success in Brokering Budget Deal," *CQ News*, October 27, 2015.

¹⁴ See CRS Report R43933, *The Federal Budget: Overview and Issues for FY2016 and Beyond*, coordinated by Steven Maguire.

¹⁵ The BCA established, among other things, a statutory limit on discretionary spending through FY2021 and required a sequestration of budgetary resources if the President and Congress fail to enact legislation reducing the federal deficit by a specified date. For information on the BCA, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

¹⁶ Some of this language was originally carried in the budget resolution as introduced, whereas other language originated as amendments that were adopted in the Senate. A relatively large number (791) of amendments were filed during the Senate floor consideration of S.Con.Res. 11, but only a subset of these was offered, and 146 of those offered were adopted.

¹⁷ The budget resolution conference agreement establishes deficit- and spending-neutral funds that provide procedural contingencies for certain budget enforcement rules in order to allow subsequent consideration of legislation that could address various specified issues across the federal budget. Reserve funds are a means of accommodating certain policy priorities when the specific spending and revenue effects of those policies are not yet known or are yet to be decided.

¹⁸ These reserve fund provisions are located in Sections 4315, 4347, 4353, 4361, and 4392 and do not constitute appropriations or agency obligational authority in the concurrent budget resolution. Other deficit- and spending-neutral reserve fund provisions would provide procedural contingencies to more broadly address regulatory reform and improved effectiveness and efficiencies of the regulatory process across the federal government (see Section 4394 and

budget resolutions are not law, they serve as a gauge of the issues of concern among Members of Congress and the possibility of potential further action by Congress.

The FY2016 concurrent resolution, S.Con.Res. 11, set the “302(a)” allocation for discretionary spending for all 12 appropriations bills at \$1,016.582 billion (\$523.091 billion for defense spending and \$493.491 billion for nondefense spending). This level was consistent with the discretionary spending limit that as set in the 2011 BCA (P.L. 112-25).¹⁹ Based on the concurrent resolution, both the House and Senate Appropriations Committees reported “302(b)” allocations for the Interior, Environment and Related Agencies Subcommittees²⁰ that were lower than the President’s FY2016 request. For the House Subcommittee, the discretionary allocation was \$30.17 billion, and the total allocation (including mandatory budget authority) was \$30.23 billion (H.Rept. 114-198). For the Senate Subcommittee, the discretionary allocation was \$30.01 billion, and the total allocation (including mandatory budget authority) was \$30.07 billion (S.Rept. 114-81).²¹

EPA Appropriations Historical Trends

Established in 1970 to consolidate federal pollution control responsibilities previously divided among several federal agencies,²² EPA’s responsibilities have grown as Congress has enacted an increasing number of environmental laws as well as major amendments to these statutes.

Appropriations are provided to EPA to support the agency’s primary responsibilities, including the regulation of air quality, water quality, pesticides, and toxic substances; regulation of the management and disposal of solid and hazardous wastes; and the cleanup of contamination (including releases of hazardous substances, leaks of petroleum from underground tanks, and discharges of oil). EPA also awards grants to assist states and local governments in ensuring compliance with federal requirements to control pollution.

A breakout of cost categories as illustrated in EPA’s FY2015 financial report (the most recent available)²³ is presented in **Figure 1**. According to EPA’s FY2015 report, grants comprised 45% of the agency’s reported net cost of operations of \$8.74 billion for FY2015. Costs are described in the report as “expenses for services rendered or activities performed.”

4401).

¹⁹ See footnote 2.

²⁰ The Interior, Environment, and Related Agencies appropriations include funding for the Department of the Interior (DOI) and agencies within other departments—including the Forest Service within the Department of Agriculture and the Indian Health Service within the Department of Health and Human Services. It also provides funding for EPA, arts and cultural agencies, and numerous other entities; see CRS Report R44061, *Interior, Environment, and Related Agencies: FY2016 Appropriations*, by Carol Hardy Vincent.

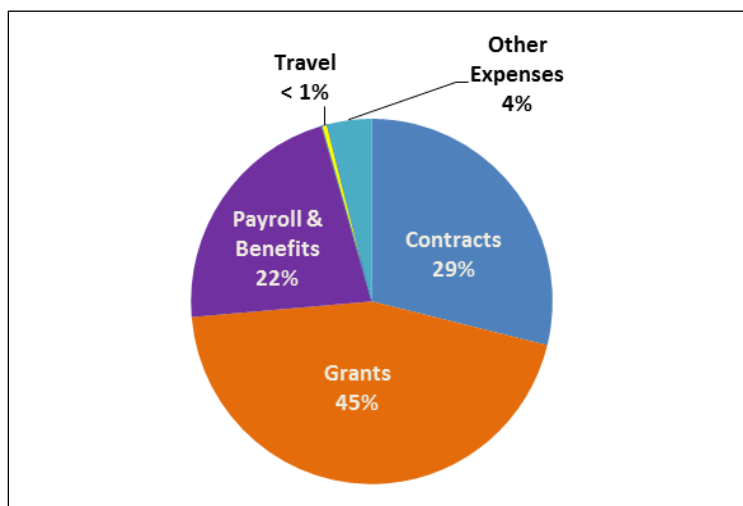
²¹ For additional information on 302(b) allocations, see CRS Report RS20144, *Allocations and Subdivisions in the Congressional Budget Process*, by Bill Heniff Jr.

²² EPA’s origin is rooted in a reorganization of the executive branch under the Nixon Administration. Reorganization Plan No. 3 of 1970 proposed the establishment of EPA to integrate the administration of numerous federal pollution control laws that had been carried out by several federal agencies. The Nixon Administration created EPA and the National Oceanic and Atmospheric Administration through this reorganization with congressional approval under procedures established in the Reorganization Act of 1949, as amended (5 U.S.C. §901 et seq.); see CRS Report RL30798, *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency*, coordinated by David M. Bearden.

²³ EPA, *Fiscal Year 2015 Agency Financial Report*, EPA-190-R-15-004, “Financial Conditions and Results,” pp. 23-29, November 16, 2015, https://www.epa.gov/sites/production/files/2015-11/documents/epa_fy_2015_afr.pdf.

Figure 1. EPA FY2015 Net Operations by Cost Category

(FY2015 Net Cost of Operations = \$8.74 billion)

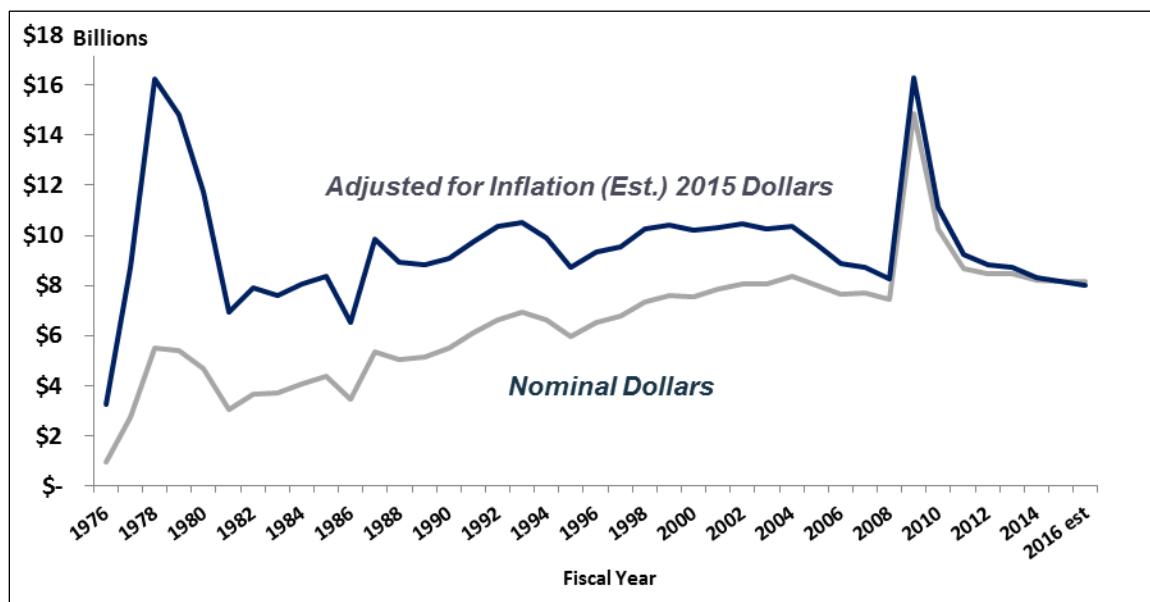


Source: CRS as adapted from EPA, “Fiscal Year 2015 Agency Financial Report,” p. 25, https://www.epa.gov/sites/production/files/2015-11/documents/epa_fy_2015_afr.pdf.

Since its establishment in 1970, EPA’s funding has generally reflected an increase in overall appropriations in nominal value (not adjusted for inflation) to fulfill a rising number of statutory responsibilities. EPA’s historical funding trends tend to parallel the evolution of the agency’s responsibilities over time, as Congress has enacted legislation to authorize the agency to develop and administer programs and activities in response to a range of environmental issues and concerns. In terms of the overall federal budget, EPA’s annual appropriations have represented a relatively small portion of the total discretionary federal budget (just under 1% in recent years).

In real dollar values (adjusted for inflation), EPA’s funding in FY1978 was slightly more than the level in FY2009, as presented in **Figure 2**. In addition to regular fiscal year appropriations, the FY2009 funding level reflects \$7.64 billion appropriated for FY2009 in P.L. 111-8, the Omnibus Appropriations Act, 2009, and the supplemental appropriations of \$7.22 billion appropriated for FY2009 in P.L. 111-5, the American Recovery and Reinvestment Act of 2009. Funding as appropriated by Congress is reflected in the line identified as “nominal dollars,” without adjusting for inflation, in **Figure 2**.

Figure 2. EPA Discretionary Budget Authority FY1976-FY2016 (Est.)
(\$ in Billions)



Source: CRS based on the Office of Management and Budget (OMB), *Budget of the United States Government Fiscal Year 2017, Historical Tables*, Table 5.4—Discretionary Budget Authority by Agency 1976-2021, and Table 10.1—Gross Domestic Product and Deflators Used in the Historical Tables - 1940–2020, <http://www.whitehouse.gov/omb/budget/Historicals>.

Table A-1 in Appendix A provides a history of enacted appropriations (not adjusted for inflation) by EPA appropriations account from FY2009 through FY2015.

The statutory authorization of appropriations for many of the programs and activities administered by EPA has expired, but Congress has continued to fund them through the appropriations process. Although House and Senate rules generally do not allow the appropriation of funding that has not been authorized, these rules are subject to points of order and are not self-enforcing. Congress may appropriate funding for a program or activity for which the authorization of appropriations has expired if no Member raises a point of order or the rules are waived for consideration of a particular bill. Congress has generally done so to continue appropriations for EPA programs and activities after authorization of appropriations has expired.²⁴ However, Congress has also terminated or reduced funding for some EPA programs or activities where authorization has lapsed.²⁵

²⁴ As amended, Section 202(e)(3) of the Congressional Budget and Impoundment Control Act of 1974 requires the Congressional Budget Office (CBO) to report to Congress annually on the enacted appropriations for individual programs and activities for which the authorization of appropriations has expired and individual programs and activities for which the authorization of appropriations is set to expire in the current fiscal year. The most recent version of this report is available on CBO's website at <https://www.cbo.gov/publication/51131>.

²⁵ As an example, for FY2013 the House committee exercised its option to limit funding for unauthorized programs by decreasing or terminating appropriations within the committee-reported bill, including EPA's U.S.-Mexico border grant and environmental education grant programs. In its report accompanying the proposed FY2013 appropriations, the House committee concluded that at least 51 agencies and/or programs—comprising nearly \$6.0 billion in the FY2013 appropriations in the committee-reported bill under the Interior, Environment, and Related Agencies Subcommittee's jurisdiction—are "unauthorized" or for which congressional authorization of appropriation has expired (H.Rept. 112-589, pp. 7-8, 136-137).

Although Congress does not explicitly appropriate funding to EPA on the basis of the agency-specific staffing levels, in its Congressional Justification documents, EPA presents information regarding total “full-time-equivalents”²⁶ (FTEs) as well as FTE levels associated with the many programmatic activities within each of the appropriations accounts. The President’s FY2016 budget request proposed 15,373 FTEs for EPA to carry out the environmental statutes.²⁷ EPA reported that the FY2015 enacted level of 15,335 FTEs was the lowest since FY1989.²⁸ **Figure A-1** in **Appendix A** presents EPA’s FTE employment ceiling as enacted for FY2001 through FY2015 and requested for FY2016.

Comparison of EPA’s FY2016 Enacted, FY2016 Proposed, and FY2015 Enacted Funding by Appropriations Account

From FY1996 to FY2013, EPA’s funding had been requested by the Administration and appropriated by Congress under eight statutory accounts.²⁹ A ninth account, Hazardous Waste Electronic Manifest System Fund, was added during the FY2014 appropriations process.³⁰ The current EPA appropriations accounts are:

- State and Tribal Assistance Grants (STAG),
- Environmental Programs and Management (EPM),
- Hazardous Substance Superfund (“Superfund”),
- Science and Technology (S&T),
- Leaking Underground Storage Tank (LUST) Trust Fund,
- Buildings and Facilities (B&F),
- Office of Inspector General (OIG),
- Inland Oil Spill Program, and
- Hazardous Waste Electronic Manifest System Fund.

²⁶ FTE employment is defined as one employee working full time for a full year (52 weeks x 40 hours = 2,080 hours) or the equivalent hours worked by several part-time or temporary employees. The requirements for reporting FTE employment in the President’s budget are prescribed in Section 85 of OMB Circular No. A-11 on “Estimating Employment Levels and the Employment Summary (Schedule Q),” https://www.whitehouse.gov/sites/default/files/omb/assets/a11_current_year/s85.pdf.

²⁷ See EPA’s FY2016 *Budget in Brief*, p. 11, footnote 4; and FY2016 Congressional Justification, pp. 4, 9-11.

²⁸ See “EPA’s Budget and Spending” at <http://www2.epa.gov/planandbudget/budget>.

²⁹ Prior to FY1996, Congress appropriated funding for EPA under a different account structure, making it difficult to compare past funding levels by account over the history of the agency.

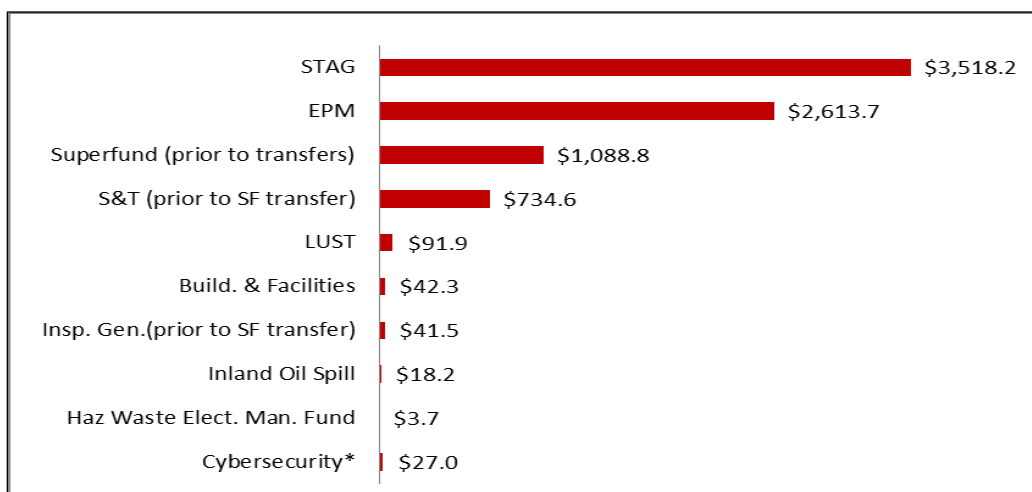
³⁰ The Hazardous Waste Electronic Manifest Establishment Act (P.L. 112-195) authorized the development of an electronic system to track hazardous waste shipments and a fund to finance it that would be supported with start-up appropriations and user fees thereafter. The system would manage the tracking of shipping manifests specifically for hazardous wastes designated under Subtitle C of the Resource Conservation and Recovery Act (RCRA)/Solid Waste Disposal Act. For FY2014, P.L. 113-76, the Consolidated Appropriations Act, 2014, created a dedicated statutory appropriations account consolidating funding that the President had requested within other existing EPA accounts for this purpose; see Title II of Division G in the Joint Explanatory Statement for the Consolidated Appropriations Act, 2014, as issued in the *Congressional Record*, vol. 160, no.9-Book II, January 15, 2014, pp. H977-H979 and H1010-1017, <http://www.gpo.gov/fdsys/pkg/CREC-2014-01-15/pdf/CREC-2014-01-15-house-bk2.pdf>.

Appendix B provides a brief description and the scope and purpose of the activities funded within each of these accounts.

The proportional distribution of funding among the EPA appropriations accounts has remained somewhat constant in recent fiscal years. Historically, the STAG account—which funds water infrastructure grants, categorical grants to states and tribes for numerous pollution control activities, grants for the cleanup of brownfields, and diesel emission reduction grants—and the Environmental Programs and Management (EPM) account combined receive roughly two-thirds of the total allocation. **Figure 3** illustrates the distribution for the FY2015 enacted appropriations.

Figure 3. EPA FY2016 Enacted Appropriations (P.L. 114-113) by Account

(dollars in millions, total = \$8.14 billion)



Source: CRS based on the Consolidated Appropriations Act, 2016, P.L. 114-113. Title IV Division G “Administrative Provisions-Environmental Protection Agency” included \$27.0 million in addition to other amounts otherwise specified to be used solely to meet federal cybersecurity implementation but did not specify an appropriations account.

Table 2 presents the FY2016 enacted appropriations for EPA under Title II of Division G of P.L. 114-113 as compared to the amounts proposed by the House and Senate Appropriations Committees in their reported bills for FY2016, proposed in the President’s FY2016 budget request, and enacted appropriations for FY2015³¹ for the nine statutory accounts that fund the agency.³² The table identifies transfers of funds between the appropriations accounts and funding levels for several program areas within certain accounts that have received congressional attention.

³¹ For an overview of the EPA FY2015 appropriations, see CRS Report R43709, *Environmental Protection Agency (EPA): FY2015 Appropriations*, by Robert Esworthy.

³² P.L. 113-76, the Consolidated Appropriations Act, 2014, created a dedicated statutory appropriations account, the Hazardous Waste Electronic Manifest System Fund, consolidating funding for necessary expenses to carry out Section 3024 of the Solid Waste Disposal Act (42 U.S.C. 6939g), including the “development, operation, maintenance, and upgrading of the hazardous waste electronic manifest system established by such section, \$3,674,000, to remain available until September 30, 2016.”

Table 2. EPA Appropriations by Account: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted

(millions of dollars not adjusted for inflation; enacted amounts include rescissions)

EPA Appropriation Accounts	FY2015 Enacted P.L. 113- 235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114- 113
Science and Technology					
—Base Appropriations	\$734.6	\$769.1	\$704.9	\$704.0	\$734.6
—Transfer in from Superfund	+\$18.8	+\$16.2	+\$16.2	+\$16.2	+\$18.8
Science and Technology Total (with transfers)	\$753.5	\$785.3	\$721.1	\$720.2	\$753.5
Environmental Programs and Management	\$2,613.7	\$2,841.7	\$2,472.3	\$2,561.2	\$2,613.7
Hazardous Waste Electronic Manifest Fund	\$3.7	\$7.4	\$0.0	\$3.8	\$3.7
Office of Inspector General					
—Base Appropriations	\$41.5	\$50.1	\$40.0	\$41.5	\$41.5
—Transfer in from Superfund	+\$9.9	+\$8.5	+\$8.5	+\$8.5	+\$9.9
Office of Inspector General Total (with transfers)	\$51.4	\$58.6	\$48.5	\$50.0	\$51.4
Buildings and Facilities	\$42.3	\$51.5	\$34.5	\$42.3	\$42.3
Hazardous Substance Superfund					
Total Appropriations	\$1,088.8	\$1,153.8	\$1,088.8	\$1,106.8	\$1,088.8
—Transfer out to Office of Inspector General	-\$9.9	-\$8.5	-\$8.5	-\$8.5	-\$9.9
—Transfer out to Science and Technology	-\$18.8	-\$16.2	-\$16.2	-\$16.2	-\$18.8
Hazardous Substance Superfund (net after transfers)	\$1,060.0	\$1,129.2	\$1,064.1	\$1,082.1	\$1,060.0
Leaking Underground Storage Tank Trust Fund Program	\$91.9	\$95.3	\$91.9	\$91.5	\$91.9
Inland Oil Spill Program	\$18.2	\$23.4	\$17.9	\$18.1	\$18.2
State and Tribal Assistance Grants (STAG)					
—Clean Water State Revolving Fund	\$1,448.9	\$1,116.0	\$1,018.0	\$1,047.0	\$1,393.9
—Drinking Water State Revolving Fund	\$906.9	\$1,186.0	\$757.0	\$775.9	\$863.2
—Other Infrastructure Grants					
-Mexico Border	\$5.0	\$5.0	\$5.0	\$10.0	\$10.0
-Alaska Native Villages	\$10.0	\$10.0	\$10.0	\$20.0	\$20.0
-Brownfields Section 104(k) Grants	\$80.0	\$110.0	\$75.0	\$80.0	\$80.0
-Diesel Emission Reduction Grants	\$30.0	\$10.0	\$50.0	\$20.0	\$50.0
-Targeted Airshed Grants	\$10.0	\$0.0	\$20.0	\$15.0	\$20.0

EPA Appropriation Accounts	FY2015 Enacted P.L. 113- 235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114- 113
—Categorical Grants	\$1,054.4	\$1,162.4	\$1,044.8	\$1,060.0	\$1,081.0
State and Tribal Assistance Grants Total	\$3,545.2	\$3,599.4	\$2,979.8	\$3,027.9	\$3,518.2
Cybersecurity (Administrative Provision)	—	—	—	—	\$27.0
Rescissions of Unobligated Balances ^a	-\$40.0	\$0.0	-\$8.0	\$0.0	-\$40.0
Total EPA Accounts	\$8,139.9	\$8,591.7	\$7,422.2	\$7,601.0	\$8,139.9

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113), and the accompanying “Explanatory Statement” submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

Notes:

- a. Rescission of unobligated balances from previous fiscal years' appropriations.

As indicated in **Table 2**, the FY2016 enacted appropriations provided the same level of funding as the FY2015 enacted level for all nine of the EPA appropriations accounts but was below the FY2016 requested levels for all nine accounts. The FY2016 enacted appropriations included both decreases and increases compared to the amounts proposed for 2016 and the 2015 enacted levels for individual programs and activities funded within each of the EPA appropriations accounts not specified in the bill itself but identified in the explanatory statement as reported in the *Congressional Record*.³³ The explanatory statement also provided direction to EPA in implementing various aspects of individual programs and activities.

The President's FY2016 requested funding for each of the nine EPA appropriations accounts would have been an increase compared to FY2015 enacted levels. The House and Senate committee-reported bills recommended decreases compared to the FY2016 request for all nine EPA appropriations accounts. Compared to the FY2015 enacted appropriations, the House committee-reported bill would have funded the Superfund and LUST Trust Fund accounts at the FY2015 enacted level but would decrease funding for the remaining accounts. The House committee-reported bill would not have provided funding for the Hazardous Waste Electronic Manifest Fund.³⁴ The Senate committee-reported bill would have provided an increase in funding for the Superfund account and the Hazardous Waste Electronic Manifest Fund account and would have decreased funding for the other seven EPA appropriations accounts compared to the FY2015 appropriations for these accounts.

As in the FY2015 enacted appropriations, the administrative provisions in Title II of Division G of P.L. 114-113 include a rescission of \$40.0 million from unobligated balances previously appropriated to carry out projects and activities funded through the STAG account. The provision further specified that no amounts are to be rescinded from amounts that Congress stipulated as

³³ See footnote 3.

³⁴ The House committee noted in report language that the committee had “provided EPA sufficient funds to develop the system consistent with EPA's cost estimates” and would have directed the agency to work with the appropriate congressional committees to extend the authorization of appropriations beyond FY2015 and to develop a “robust” justification for costs that exceed appropriated amounts through FY2015. See H.Rept. 114-170 accompanying H.R. 2822 as reported, pp. 56-57.

emergency requirements pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Act of 1985. The FY2016 President's request did not include a rescission of unobligated balances, but the FY2015 request had proposed a \$5.0 million rescission.³⁵ The FY2014 enacted appropriations did not include rescissions of unobligated balances of EPA prior fiscal years' appropriations, whereas EPA appropriations beginning in FY2006 through FY2013 did include them.

Funding and Policy-Related Issues

During the debate and consideration of EPA's FY2016 appropriations, much attention was focused on the agency's implementation of air quality and climate change regulations and research activities, prioritization and adequacy of funding for wastewater and drinking water infrastructure projects, categorical grants to assist states in implementing federal pollution control laws, and federal financial assistance for environmental cleanup of Superfund and brownfield sites. Funding for geographic-specific water quality initiatives (e.g., the Great Lakes Restoration Initiative and efforts to restore the Chesapeake Bay) also drew some attention. In addition to funding priorities among the various EPA programs and activities, several recent and pending EPA regulatory actions—including several that were central to debates during previous EPA appropriations—were again prominent in the debate regarding the FY2016 appropriations.³⁶

Other Members expressed concerns about the use of appropriations in the implementation of many of the federal pollution control statutes administered by EPA, the agency's efforts intended to control carbon emissions under the Clean Air Act and its interpretation of the CWA definition of "waters of the United States" received considerable attention. Some Members expressed concerns related to these regulatory actions during appropriations committee hearings and markup of appropriations. Oversight and authorizing committees continue to address some of these actions through hearings and legislation during the 114th Congress.

The following sections discuss selected EPA issues that received attention in the FY2016 congressional appropriations debate.

EPA Regulations: Prohibitions/Restrictions on Use of FY2016 Appropriations

EPA has proposed and promulgated a number of regulations intended to implement provisions of the various federal pollution control statutes enacted by Congress over time. Debate regarding these regulations has resulted in proposed legislation including during the 112th, 113th, and 114th Congresses.³⁷ Some stakeholders and Members of Congress have expressed concerns that certain agency actions "overreached" the authority given it by Congress. Moreover, some assert that EPA's actions ignored or underestimated the costs and economic impacts of proposed and promulgated rules.

³⁵ See EPA FY2015 Congressional Justification, pp. 1019-1020, <http://www2.epa.gov/planandbudget/archive>.

³⁶ See hearings on EPA FY2016 budget request listed in **Appendix C**.

³⁷ The discussion under "Is EPA on Target or Overreaching? Conflicting Views" in the introduction of CRS Report R41561, *EPA Regulations: Too Much, Too Little, or On Track?*, by James E. McCarthy and Claudia Copeland, examines major or controversial regulatory actions taken by or under development at EPA since January 2009, provides details on the regulatory action itself, presents an estimated timeline for completion of the rule (including identification of related court or statutory deadlines where applicable), and, in general, provides EPA's estimates of costs and benefits when available. The report also discusses factors that affect the time frames in which regulations take effect.

Other Members, EPA, and some stakeholders have countered that EPA's actions are consistent with statutory mandates and in some circumstances are compelled by court ruling. Others contend that the pace of rulemaking in some ways is slower than a decade ago, and costs and benefits are appropriately evaluated. Some states, industry groups, and environmental advocacy groups contend that in some cases EPA has not fully implemented its statutorily mandated authorities and that certain regulatory action has been delayed. Still others advocate that regulations should be stronger than those promulgated and proposed to more adequately protect public health and welfare and the environment.

Recently promulgated and pending actions under the CAA have received much of the attention within Congress. EPA controls on GHG emissions and efforts to abate conventional pollutant emissions (e.g., mercury, particulate matter, and sulfur dioxide) from a number of industries have been central to the debate.³⁸ The Administration's "Clean Power Plan" (CPP), which would require reduction of carbon emission from existing electric generating units and related actions, has been identified as a top priority for EPA and other federal agencies and a central element for climate mitigation. The CPP was a particularly contentious issue during the FY2016 EPA appropriations debate.³⁹ Actions under the CWA, most notably the EPA and Army Corps of Engineers joint rule to define the scope of waters protected under the CWA⁴⁰ and the Safe Drinking Water Act—including the use of U.S. iron and steel for drinking water infrastructure projects; the Resource Conservation and Recovery Act (RCRA), including coal ash regulations; the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Superfund financial responsibility; and the Toxic Substances Control Act (TSCA), including regulation of lead in ammunition and fishing tackle—also received attention.

The general provisions in Title IV of Division G of P.L. 114-113 included provisions restricting the use of funds for certain EPA actions similar to those contained in previous recent appropriations but incorporated only a subset of those included in H.R. 2822 and S. 1645 as reported (see **Appendix D**). The provisions also included those directing EPA to undertake certain actions regarding the Great Lakes. A brief description of these EPA provisions in P.L. 114-113 follows:

- Section 417 (Prohibitions on Use of Funds) continues a provision included in the FY2015 appropriations (P.L. 113-235, §419, in Title IV Division F) and other previous fiscal years beginning with the FY2010 appropriations (P.L. 111-88, Title IV §424), that would prohibit the use of funds made available "in this or any other Act" to promulgate or implement any regulation requiring the issuance of permits under Title V of the CAA (42 U.S.C. Chapter 85, Subchapter V) to reduce emissions of carbon dioxide, nitrous oxide, water vapor, or methane resulting from biological processes associated with livestock production.

³⁸ For discussion of selected EPA regulatory actions see CRS Report R43851, *Clean Air Issues in the 114th Congress: An Overview*, by James E. McCarthy; see also CRS Report R41212, *EPA Regulation of Greenhouse Gases: Congressional Responses and Options*, by James E. McCarthy; and CRS Report R41561, *EPA Regulations: Too Much, Too Little, or On Track?*, by James E. McCarthy and Claudia Copeland.

³⁹ EPA, "Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework, Regulations, Proposed Rule," 80 *Federal Register* 64965-65116, October 23, 2015, <https://www.gpo.gov/fdsys/pkg/FR-2015-10-23/pdf/2015-22848.pdf>. See EPA's Clean Power Plan for Existing Power Plants website at <https://www.epa.gov/cleanpowerplan/clean-power-plan-existing-power-plants>. See also CRS Report R44145, *EPA's Clean Power Plan: Highlights of the Final Rule*, by Jonathan L. Ramseur and James E. McCarthy.

⁴⁰ See CRS Report R43455, *EPA and the Army Corps' Rule to Define "Waters of the United States,"* by Claudia Copeland.

- Section 418 (Greenhouse Gas Reporting Restrictions) continues a provision included in the FY2015 appropriations (P.L. 113-235, §420, in Title IV of Division F) and other previous fiscal years beginning with the FY2010 appropriations in P.L. 111-88 (Title IV §425), that prohibits the use of funds made available “in this or any other Act” to implement any provision in a rule if that provision requires mandatory reporting of GHG emissions from manure management systems.
- Section 420 (Funding Prohibition) continues a provision included in the FY2015 appropriations (P.L. 113-235, §425, in Title IV of Division F) prohibiting the use of funds made available “by this or any other Act” to regulate the lead content of ammunition or fishing tackle under the TSCA (15 U.S.C. 2601 *et seq.*) or any other law.

Section 422 (Chesapeake Bay Initiative) amends Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (P.L. 105-312; 16 U.S.C. 461 note) extending the authorization of funding through FY2017.

- Section 424 (Use of American Iron and Steel) continues a provision included in the FY2015 appropriations (P.L. 113-235, §424, in Title IV of Division F) prohibiting the use of funds made available by the drinking water state revolving loan fund (SRF) (provision does not explicitly specify that this applies only to those funds made available in this act) authorized under the Safe Drinking Water Act (SDWA, 42 U.S.C. 300j-12) for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works⁴¹ unless all iron and steel used in the project are produced in the United States unless otherwise exempted as specified in this section of the act.
- Section 425 (Notification Requirements) requires the EPA Administrator to work with states having publicly owned treatment works that discharge to the Great Lakes to create public notice requirements for a combined sewer overflow discharge to the Great Lakes.
- Section 426 (Great Lakes Restoration Initiative) amends Section 118(c) of the CWA (33 U.S.C. 1268(c)) to establish the Great Lakes Restoration Initiative to carry out certain protection and restoration programs and projects, authorizing \$300.0 million for FY2016.

The provisions above included in P.L. 114-113 are a subset of a number of administrative⁴² and general provisions proposed in the House and Senate committee-reported bills that would have restricted or prohibited the use of FY2016 funds by EPA for implementing or proceeding with a number of regulatory actions (see **Appendix D**). As indicated earlier, EPA’s regulatory actions were also the subject of debate during consideration of the House and Senate budget resolutions. Language regarding some of these EPA regulatory actions was included in the concurrent budget resolution (S.Con.Res. 11, H.Rept. 114-96) agreed to on May 5, 2015, as discussed earlier in this report (“FY2016 Budget Resolution”).

⁴¹ The 113th Congress amended the Clean Water Act SRF provisions (33 U.S.C. 1381 *et. seq.*) in the Water Resources Reform and Development Act of 2014 (WRRDA), P.L. 113-121. WRRDA Section 5004 codified a “Buy American” statutory provision for the Clean Water (wastewater) SRF similar to a provision contained in the Consolidated Appropriations Act, 2014 (P.L. 113-76, §436, of Title IV of Division G) that applied to both wastewater and drinking water SRF capitalization grants.

⁴² Administrative provisions generally set terms and conditions for the use of appropriated funds.

Air Quality and Climate Change⁴³

Several EPA air quality and climate change activities⁴⁴ received considerable attention during hearings and debate regarding EPA's FY2016 appropriations. Many of these activities are associated with regulations under the CAA,⁴⁵ in particular those that address GHGs, ozone, and particulate matter emissions. The agency's response to a 2007 U.S. Supreme Court decision finding that the CAA definition of air pollutants was broad enough to include GHGs⁴⁶ remains a prominent issue in association with EPA's climate change activities.

EPA air quality and climate program activities garnered significant attention during hearings and consideration of the FY2016 EPA appropriations. In particular, the CPP—identified as a top priority for the agency and a central element of the Administration's climate mitigation agenda⁴⁷—was the focus of much debate. The CPP final rule, which includes reducing carbon emission from existing electric generating units and related actions, was published in the *Federal Register* on October 23, 2015.⁴⁸ As part of its release, the EPA introduced a revised incentive program for states choosing to go beyond the CPP that supplanted a concept for an EPA-administered “Clean Power State Incentive Fund”⁴⁹ initially included in the President's FY2016 request.

As noted in the previous section of this CRS report, P.L. 114-113 included two general provisions in Title IV of Division G preventing EPA from using any funds provided in the act (“or any other Act”) for two specific air quality regulatory activities related to GHG emissions. Section 417 addresses regulations for the issuance of permits under Title V of the Clean Air Act that would govern GHG emissions from biological processes associated with livestock production. Section 418 addresses reporting requirements for GHG emissions associated with manure management systems. A number of provisions restricting the use of FY2016 funds by EPA for a number of air quality actions proposed in the House and Senate bills as reported were not retained in the Consolidated Appropriations Act, 2016.

Appropriated funds for EPA's climate change⁵⁰ and air quality activities are distributed across several program activities under multiple appropriations accounts. Because of variability in these

⁴³ See CRS Report IS42267, *CRS Introductory Statement on the Clean Air Act and Air Quality*, coordinated by James E. McCarthy; CRS Report R43851, *Clean Air Issues in the 114th Congress: An Overview*, by James E. McCarthy; CRS Report R41212, *EPA Regulation of Greenhouse Gases: Congressional Responses and Options*, by James E. McCarthy; CRS Report R44341, *EPA's Clean Power Plan for Existing Power Plants: Frequently Asked Questions*, by James E. McCarthy et al.; and CRS Report R43227, *Federal Climate Change Funding from FY2008 to FY2014*, by Jane A. Leggett, Richard K. Lattanzio, and Emily Bruner.

⁴⁴ EPA is one of 17 federal agencies that have explicitly received appropriations for climate change activities in recent fiscal years. EPA's share of this funding is relatively small, but EPA's policy and regulatory roles are proportionately larger than other federal agencies and departments.

⁴⁵ See footnote 38.

⁴⁶ *Massachusetts v. EPA*, 549 U.S. 497 (2007). See CRS Report RS22665, *The Supreme Court's First Climate Change Decision: Massachusetts v. EPA*, by Alexandra M. Wyatt.

⁴⁷ See CRS Report R43120, *President Obama's Climate Action Plan*, coordinated by Jane A. Leggett.

⁴⁸ See footnote 39.

⁴⁹ See EPA, “Fact Sheet: Clean Energy Incentive Program (CEIP),” <https://www.epa.gov/cleanpowerplan/fact-sheet-clean-energy-incentive-program>. The CEIP fact sheet and other materials related to the CPP are available at <https://www.epa.gov/cleanpowerplan/clean-power-plan-existing-power-plants>.

⁵⁰ Although Congress does not appropriate funding based on EPA's strategic performance goals, the President's FY2016 request proposed \$1.11 billion (including \$279.5 million to “address climate change” across multiple appropriations accounts) and 2,606 FTEs to support the agency's strategic objective: “Addressing Climate Change and Improving Air Quality.” The FY2015 enacted level cited by EPA was \$992.7 million for this performance goal,

activities and modifications to account structures from year to year, it is difficult to compare the overall combined funding included in appropriations bills with the President's FY2016 request and enacted appropriations. However, comparisons can be made among certain activities for which Congress does specify a line item in the appropriations process⁵¹ as presented in **Table 3**.

Table 3. Appropriations for Selected EPA Air Quality Research and Implementation Activities by Account: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted

(millions of dollars, not adjusted for inflation)

Account/Program Area	FY2015 Enacted P.L. 113-235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114-113
Science and Technology Account					
Clean Air and Climate	\$116.5	\$124.8	\$107.7	\$106.0	\$116.5
<i>Clean Air Allowance Trading Program</i>	—	\$7.8	—	—	—
<i>Climate Protection Program</i>	\$8.0	\$8.1	\$8.0	\$8.0	\$8.0
<i>Federal Support for Air Quality Management</i>	—	\$8.5	—	—	—
<i>Federal Vehicle & Fuels Standards & Certification</i>	—	\$100.4	—	—	—
Indoor Air and Radiation	\$6.0	\$6.6	\$6.0	\$6.2	\$6.0
<i>Indoor Air: Radon Program</i>	\$0.2	\$0.0	—	—	—
<i>Reduce Risks from Indoor Air</i>	—	\$0.4	—	—	—
<i>Radiation: Protection</i>	—	\$2.2	—	—	—
<i>Radiation: Response Preparedness</i>	—	\$4.0	—	—	—
Research: Air, Climate and Energy	\$91.9	\$100.3	\$88.3	\$90.4	\$91.9
Environmental Programs and Management					
Clean Air and Climate	\$273.1	\$336.9	\$247.5	\$248.6	\$273.1
<i>Clean Air Allowance Trading Program</i>	—	\$18.4	—	—	—
<i>Climate Protection Program</i>	\$95.4	\$109.6	\$85.2	\$85.9	\$95.4
<i>Federal Stationary Source Regulations</i>	—	\$37.5	—	—	—
<i>Federal Support for Air Quality Management</i>	—	\$157.3	—	—	—
<i>Stratospheric Ozone: Domestic Programs</i>	—	\$5.0	—	—	—

including \$190.7 million to “address climate change.” According to the EPA’s FY2016 Congressional Justification, the FY2016 request included \$214.0 million for EPA “to support regulatory activities and partnership programs to reduce GHG emissions domestically and internationally” and proposed funding support for programmatic activities throughout the appropriations accounts related to EPA’s CPP, including \$25.0 million within the STAG account for grants to help states develop their CPP strategies. EPA, FY2016 *Budget in Brief*, pp. 13-21, and p. 108; and EPA’s FY2016 Congressional Justification, p. 7 and p. 20.

⁵¹ It is difficult to compare the FY2016 funding levels for all program activities with previous fiscal years’ appropriations, as, from year to year, EPA has sometimes modified the line items under which funding for climate-protection-related program activities is requested. For example, for FY2012, the conferees accepted the Administration’s proposed budget reorganization of certain air quality and climate protection program activities, including consolidation and modifications of various line items, making it difficult to compare FY2012 appropriations with FY2011 (and prior year) appropriations.

Account/Program Area	FY2015 Enacted P.L. 113-235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114-113
<i>Stratospheric Ozone: Multilateral Fund</i>	—	\$9.1	—	—	—
Indoor Air and Radiation	\$27.6	\$30.3	\$29.2	\$28.3	\$27.6
<i>Indoor Air: Radon Program</i>	—	\$3.4	—	—	—
<i>Radiation: Protection</i>	—	\$9.5	—	—	—
<i>Radiation: Response Preparedness</i>	—	\$3.3	—	—	—
<i>Reduce Risks from Indoor Air</i>	—	\$14.1	—	—	—
Hazardous Substance Superfund Account					
Indoor Air and Radiation: Radiation Protection	\$2.0	\$2.2	\$2.0	\$2.1	\$2.0
State and Tribal Assistance Grants Account					
Diesel Emissions Reduction Grants	\$30.0	\$10.0	\$50.0	\$20.0	\$50.0
Targeted Airshed Grants	\$10.0	\$0.0	\$20.0	\$15.0	\$20.0
Radon	\$8.1	\$0.0	\$8.1	\$8.1	\$8.1
State & Local Air Quality Management Grants	\$228.2	\$268.2	\$228.2	\$228.2	\$228.2
Tribal Air Quality Management Grants	\$12.8	\$12.8	\$12.8	\$12.8	\$12.8

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113), and the accompanying “Explanatory Statement” submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

Notes: The “—” denotes no breakout of subaccount activities.

As presented in **Table 3**, EPA “clean air and climate” activities constitute the single largest air quality program area funded within the EPM and S&T accounts. The combined total of the two accounts enacted for FY2016 for this program area was \$389.6 million—the same as enacted for FY2015 but \$72.1 million (15.6%) less than the President’s FY2016 request of \$461.7 million. The combined proposed total within the two accounts of \$355.2 million proposed in H.R. 2822 and \$354.6 million in S. 1645 reflect a \$106.5 million (23.1%) and a \$107.2 million (23.2%) decrease below the \$461.7 million requested for FY2016. The amounts are \$34.4 million (8.8%) and \$35.0 million (9.0%) below the FY2015 enacted level of \$389.6 million for this program area.

State and Local Air Quality Management grants are the single largest air quality activity funded within the STAG account. The FY2016 enacted appropriation for these grants in P.L. 114-113 was \$228.2 million, the same as FY2015 enacted and proposed in the House and Senate committee-reported bills but \$40.0 million (14.9%) less than the President’s FY2016 request of \$268.2 million. States use these grants to help pay the costs of operating air pollution control programs. Much of the day-to-day operations of these programs (e.g., monitoring, permitting, enforcement, and developing site-specific regulations) are done largely by the state and local agencies with CAA authorities delegated by EPA.

In the STAG account, the FY2016 enacted appropriation included \$50.0 million for FY2016 for the Diesel Emission Reduction Act Grants (DERA) program, \$40.0 million more than the FY2016 requested level and \$20.0 million more than enacted for FY2015. The FY2015

President's budget request had proposed no funding for the DERA grants. Of note, the FY2014 enacted level was \$20.0 million, the FY2013 post-sequestration funding level was \$18.9 million, and the FY2012 enacted level was \$30.0 million. The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) had provided an additional \$300.0 million in supplemental funds for these grants in FY2009 for a total of \$360.0 million in that fiscal year, much of which was awarded in FY2010. The Energy Policy Act of 2005⁵² had originally authorized \$200.0 million annually for these grants from FY2007 through FY2011.

The FY2016 enacted appropriations included \$20.0 million for "Targeted Airshed Grants" within the STAG account to reduce air pollution in areas designated as nonattainment, an increase above the \$10 million appropriated in FY2015. These grants, which were introduced in the FY2015 Consolidated and Continuing Further Appropriations Act, are to be distributed "on a competitive basis to non-attainment areas that EPA determines are ranked as the top five most polluted areas relative to annual ozone or particulate matter 2.5 standards." The FY2016 request did not include funding for the targeted airshed grants.

P.L. 114-113 included funding for state indoor radon (categorical) grants at the FY2015 level of \$8.1 million. Similar to the FY2014 and FY2015 requests, the President's FY2016 request proposed eliminating the radon grant program, noting that states had established the necessary technical expertise and program funding in place to continue radon protection efforts without federal funding.

Wastewater and Drinking Water Infrastructure⁵³

The State Revolving Funds (SRFs) help finance local wastewater and drinking water infrastructure projects, such as constructing and modifying municipal sewage treatment plants and drinking water treatment plants, to facilitate compliance with the Clean Water Act and the Safe Drinking Water Act, respectively. Clean Water State Revolving Fund (CWSRF) capitalization grants are awarded to states according to a statutory formula established in the Clean Water Act. Drinking Water State Revolving Fund (DWSRF) capitalization grants under the Safe Drinking Water Act are awarded among the states based on a formula developed administratively by EPA using the results of the most recent drinking water needs survey.

Historically, funding within the EPA STAG account for these CWSRFs and DWSRFs capitalization grants has represented a sizable portion of the total appropriations for EPA, ranging from one-fourth to one-third of the agency's funding in recent fiscal years.⁵⁴ For a historical perspective of SRF funding since FY2009, see **Table A-1** in **Appendix A**. As indicated in the table, since FY2009, funding amounts for the CWSRF have been higher than that for the DWSRF.

The combined total enacted amount for the Clean Water and the Drinking Water SRFs for FY2016 of \$2.26 billion was \$44.9 million below the FY2016 requested levels and \$98.7 million below FY2015 enacted levels but an increase compared to the levels proposed in the House and

⁵² Energy Policy Act of 2005, P.L. 109-58, Title VII, Subtitle G.

⁵³ See CRS Report 96-647, *Water Infrastructure Financing: History of EPA Appropriations*, by Claudia Copeland; and CRS Report RS22037, *Drinking Water State Revolving Fund (DWSRF): Program Overview and Issues*, by Mary Tiemann.

⁵⁴ The SRFs received an additional \$6.00 billion in the American Recovery and Reinvestment Act (ARRA) of 2009 (P.L. 111-5) and a 130% increase above the FY2008 and FY2009 regular appropriations levels for FY2010.

Senate reported bills. P.L. 114-113 appropriated \$1.39 billion for the CWSRF capitalization grants and \$863.2 million for the DWSRF capitalization grants for FY2016.

For FY2016, the President's budget had proposed a higher level for the DWSRF than the CWSRF, citing increased comparative needs for drinking water infrastructure improvements.⁵⁵ The largest dollar amount decrease proposed in any proportion of the President's FY2016 request for EPA would have been for the CWSRF within the STAG account. The CWSRF funding would have declined by \$332.9 million (23.0%) compared to FY2015 enacted; however, the proposed FY2016 requested funding for the DWSRF would have been an increase of \$279.1 million (30.8%) compared to the FY2015 enacted for the DWSRF. As presented in **Table 4**, the House and Senate committee-reported bills both proposed higher funding for the CWSRF than for DWSRF, but proposed funding for each of the SRFs was below the FY2016 requested and FY2015 enacted levels.

Table 4. Appropriations for Clean Water and Drinking Water State Revolving Fund (SRF) Capitalization Grants: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted
(millions of dollars, not adjusted for inflation)

SRF	FY2015 Enacted P.L. 113-235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114- 113
Clean Water	\$1,448.9	\$1,116.0	\$1,018.0	\$1,047.0	\$1,393.9
Drinking Water	\$906.9	\$1,186.0	\$757.0	\$775.9	\$863.2
Total SRF Appropriations	\$2,355.8	\$2,302.0	\$1,775.0	\$1,822.9	\$2,257.1

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113), and the accompanying "Explanatory Statement" submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

An ongoing issue for Congress has been the extent of federal financial assistance needed to help states maintain sufficient capital in their SRFs to meet local water infrastructure needs. Capital needs for water infrastructure, as demonstrated in EPA-state surveys, remain high. While expressing recognition of the importance of the SRFs, some Members have contended that funding these accounts through regular appropriations is unsustainable. Some advocates of a prominent federal role have cited estimates of hundreds of billions of dollars in long-term needs among communities, and the expansion of federal water quality mandates over time, as reasons for maintaining or increasing the level of federal financial assistance. Others have called for more self-reliance among state and local governments in meeting water infrastructure needs within their respective jurisdictions.

Water Infrastructure Finance and Innovation Act of 2013 (WIFIA)

Beyond the SRF program, Congress continues to consider alternative financing approaches for water infrastructure. Enacted on June 10, 2014, the Water Resources Development Act of 2014

⁵⁵ See EPA Administrator Gina McCarthy's statement and response to questions during the House and Senate Appropriations Committee hearings regarding EPA appropriations; see also **Appendix C**.

(P.L. 113-121, H.R. 3080) includes in Title V, Subtitle C, the Water Infrastructure Finance and Innovation Act of 2013 (WIFIA). In WIFIA, Congress authorized a pilot loan guarantee program to test the ability of innovative financing tools to promote increased development of, and private investment in, water infrastructure projects.⁵⁶ Per the Explanatory Statement accompanying P.L. 114-113, FY2016 funding for WIFIA is provided at the FY2015 level.⁵⁷ The Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235), appropriated \$2.2 million for implementation preparation for FY2015.⁵⁸ (See **Table 6** under “Other Water Quality Program Activities” below.) H.R. 2822 and S. 1645 as reported did not explicitly specify funds for project financing. However, in the reports accompanying the committee-reported bills, the House committee proposed \$4.4 million and the Senate committee proposed \$5.0 million—the same as the FY2016 request—for EPA’s preparations to implement the program.

Geographic-Specific/Ecosystem Restoration Programs

The EPM appropriations account includes funding for several geographic-specific/ecosystem restoration programs to address certain environmental and human health risks in a number of identified areas of the United States. The funding adequacy for these geographic programs garnered attention during the FY2016 appropriations debate, as in previous fiscal years. Included are funding for the National Estuary Program and Coastal Waterways program area and for certain specific water bodies including the Great Lakes⁵⁹ and the Chesapeake Bay.⁶⁰ These programs often involve collaboration among EPA, state and local governments, communities, nonprofit organizations, and individual citizens. A comparison of FY2016 enacted, requested and proposed funding, and FY2015 enacted funding for these geographic and ecosystem programs is presented in **Table 5**.

⁵⁶ The act authorizes to be appropriated to the Secretary of the Interior and the EPA Administrator \$20 million each for FY2015 and \$25 million each for FY2016, with amounts increasing annually to \$50 million each for FY2019. See CRS Report R43315, *Water Infrastructure Financing: The Water Infrastructure Finance and Innovation Act (WIFIA) Program*, by Claudia Copeland. See also relevant discussion in CRS Report RS22037, *Drinking Water State Revolving Fund (DWSRF): Program Overview and Issues*, by Mary Tiemann.

⁵⁷ FY2015 funding for WIFIA was specified within the EPA EPM account under “Water Quality Protection” in the Explanatory Statement. The Explanatory Statement accompanying the FY2016 Consolidated Appropriations specifies \$210.4 million for “Water Quality Protection” for FY2016, the same as FY2015, and further states that “the Agency shall allocate funds consistent with fiscal year 2015.” *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), p. H10222, <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>.

⁵⁸ The FY2015 enacted appropriation of \$2.2 million for activities under WIFIA was specified in the *Congressional Record*, vol. 160, no. 151-Book II (December 11, 2014), p. H9767, <https://www.gpo.gov/fdsys/pkg/CREC-2014-12-11/pdf/CREC-2014-12-11-bk2.pdf>.

⁵⁹ The Great Lakes Interagency Task Force was established by executive order in 2004. See Executive Order 13340, “Establishment of Great Lakes Interagency Task Force and Promotion of a Regional Collaboration of National Significance for the Great Lakes,” May 18, 2004. In FY2010, President Obama proposed the establishment of a Great Lakes Restoration Initiative, which Congress subsequently approved in the Interior, Environment, and Related Agencies Appropriations Act, 2010 (P.L. 111-88). Projects and programs are to be implemented through grants and cooperative agreements with states, tribes, municipalities, universities, and other organizations. For more information, see <https://www.epa.gov/greatlakes>.

⁶⁰ Issued on May 12, 2009, Executive Order 13508, “Chesapeake Bay Protection and Restoration,” directed federal departments and agencies to exercise greater leadership in implementing their existing authorities to restore the bay.

Table 5. Appropriations for Selected Geographic/Ecosystem Programs: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted

(millions of dollars, not adjusted for inflation)

EPM Account Geographic/Ecosystem Program	FY2015 Enacted P.L. 113-235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114-113
Water: Ecosystems Total	\$47.8	\$50.6	\$45.0	\$47.8	\$47.8
<i>National Estuary Program/Coastal Waterways</i>	\$26.7	\$27.3	\$25.1	\$27.3	\$26.7
Wetlands	\$21.1	\$23.3	\$19.9	\$20.5	\$21.1
Geographic Programs Total	\$427.7	\$370.4	\$403.5	\$432.5	\$427.7
<i>Great Lakes Restoration Initiative^a</i>	\$300.0	\$250.0	\$300.0	\$300.0	\$300.0
<i>Chesapeake Bay Program</i>	\$73.0	\$70.0	\$60.0	\$73.0	\$73.0
<i>San Francisco Bay</i>	\$4.8	\$4.0	\$4.0	\$4.8	\$4.8
<i>Puget Sound</i>	\$28.0	\$30.0	\$28.0	\$30.0	\$28.0
<i>Long Island Sound</i>	\$3.9	\$2.9	\$3.9	\$3.9	\$3.9
<i>Gulf of Mexico</i>	\$4.5	\$3.9	\$3.9	\$8.1	\$4.5
<i>South Florida</i>	\$1.7	\$1.3	\$1.3	\$1.3	\$1.7
<i>Lake Champlain</i>	\$4.4	\$1.4	\$1.4	\$4.4	\$4.4
<i>Lake Pontchartrain</i>	\$0.9	\$0.9	\$0.9	\$0.9	\$0.9
<i>Southern New England Estuaries^b</i>	\$5.0	\$5.0	\$0.0	\$5.0	\$5.0
<i>Other Geographic Activities</i>	\$1.4	\$0.9	\$0.0	\$0.9	\$1.4
All Selected Programs	\$475.5	\$421.0	\$448.5	\$480.3	\$475.5

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113) and the accompanying "Explanatory Statement" submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

Notes:

- a. Funding for the Great Lakes Legacy Act and for EPA's Great Lakes Program was moved to the Great Lakes Restoration Initiative in FY2010.
- b. This program is referred to as the "Southeast New England Coastal Watershed Restoration Program (SNECWRP)" in the EPA FY2016 Congressional Justification.

As noted earlier in this report (see "EPA Regulations: Prohibitions/Restrictions on Use of FY2016 Appropriations"), in the general provisions in Title IV of Division G of P.L. 114-113, Section 426 (Great Lakes Restoration Initiative) amends Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) to establish the Great Lakes Restoration Initiative to carry out certain protection and restoration programs and projects and authorizes \$300.0 million for FY2016.

Other Water Quality Program Activities⁶¹

P.L. 114-113 provided funding for FY2016 for several water quality state and tribal grant programs (including CWA Section 106 grants, and wetlands program development grants within the STAG account) at the same level as FY2015 with the exception of increased funding for “Research: National Priorities” within the S&T account and Nonpoint Source Section 319 grants within the STAG account. A comparison of the FY2016 enacted with the FY2016 requested and proposed and FY2015 enacted funding levels for these grants is presented in **Table 6** below and also in **Table 7** under “Categorical Grants” later in this report.

As in past EPA appropriations within the STAG account, funding was included for FY2016 to support water infrastructure projects in two geographic-specific areas: Alaska Native Villages and the U.S.-Mexico Border region. As presented in **Table 2** earlier in this report and in **Table 6** below, P.L. 114-113 provided \$20.0 million for the construction of wastewater and drinking water facilities in Alaska Native Villages for FY2016, the same as proposed in the Senate committee-reported bill. The House committee-reported bill proposed \$10.0 million, the same as the President’s FY2016 request and enacted for FY2015. P.L. 114-113 provided \$10.0 million within the STAG account for wastewater infrastructure projects along the U.S.-Mexico border, the same as the Senate committee-reported bill, compared to \$5.0 million as proposed in the House committee-reported bill and the President’s FY2016 request and enacted for FY2015.

Overall, funding for EPA’s programmatic efforts to protect water quality is proposed and appropriated primarily for sub-account program activities within the S&T and EPM appropriation accounts:

- “Research: Safe and Sustainable Water” and “Research: National Priorities” in the S&T account;
- “Water: Ecosystem,” “Water Quality Protection,” and “Environment: National Priorities” in the EPM account; and
- “Water: Human Health Protection” in both accounts. EPA presents additional categorizations of each of the sub-account activities in its congressional budget justification. However, these itemizations have not generally been explicitly presented in the appropriations tables for EPA included in the committee reports accompanying proposed and enacted appropriations.

P.L. 114-113 generally funds these program activities for FY2016 at or near the FY2015 enacted levels and similar to H.R. 2822 and S. 1645 as reported, while the FY2016 request proposed an increase above the FY2015 levels, with some exceptions. For example, the House committee-reported bill would have adopted the FY2016 requested proposal to eliminate the grants for beach protection (i.e., BEACHES grants), but P.L. 114-113 funded the program at the FY2015 enacted level, the same as the Senate committee-reported bill. (See also discussion under “Categorical Grants.”) A comparison of the FY2016 enacted, requested and proposed, and FY2015 enacted funding for these activities by account is presented in **Table 6**.

⁶¹ See CRS Report R43867, *Water Quality Issues in the 114th Congress: An Overview*, by Claudia Copeland.

Table 6. Appropriations for Selected EPA Water Quality Research and Implementation Activities by Account: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted

(millions of dollars, not adjusted for inflation)

Account/Program Area	FY2015 Enacted P.L. 113-235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114- 113
Science and Technology Account					
Research: Safe and Sustainable Water	\$107.4	\$111.0	\$102.6	\$104.9	\$107.4
Water: Human Health Protection	\$3.5	\$3.8	\$3.5	\$3.7	\$3.5
-Drinking Water Programs	—	\$3.8	—	—	—
Research: National Priorities (Congressional Priorities-Water Quality Research and Support Grants)	\$4.1	\$0.0	\$7.1	\$4.1	\$14.1
Environmental Programs and Management					
Geographic Programs Total	\$427.7	\$370.4	\$403.5	\$432.5	\$427.7
Water: Ecosystem	\$47.8	\$50.6	\$45.0	\$47.8	\$47.8
-National Estuary Program/Coastal Waterways	\$26.7	\$27.3	\$25.1	\$27.3	\$26.7
-Wetlands	\$21.1	\$23.2	\$19.9	\$20.5	\$21.1
Water: Human Health Protection	\$98.5	\$125.8	\$93.3	\$97.5	\$98.5
-Beach/Fish Programs	—	\$0.7	—	—	—
-Drinking Water Programs	—	\$125.0	—	—	—
Water Quality Protection	\$210.4	\$254.3	\$192.5	\$195.3	\$210.4
-Marine Pollution	—	\$10.5	—	—	—
-Surface Water Protection	—	\$238.8	—	—	—
-Water Infrastructure Finance and Innovation ^a	\$2.2	\$5.0	\$4.4	\$5.0	\$2.2
Environment: National Priorities (Congressional Priorities-Water Quality Research and Support Grants)	\$12.7	\$0.0	\$12.7	\$15.0	\$12.7
State and Tribal Assistance Grants Account					
Infrastructure: Assistance: Alaska Native Villages	\$10.0	\$10.0	\$10.0	\$20.0	\$20.0
Infrastructure: Mexico Border	\$5.0	\$5.0	\$5.0	\$10.0	\$10.0
Categorical Grants					
-Beaches Protection	\$9.5	\$0.0	\$0.0	\$9.5	\$9.5
-Nonpoint Source (Sec. 319)	\$159.3	\$164.9	\$159.3	\$164.9	\$164.9

Account/Program Area	FY2015 Enacted P.L. 113-235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114- 113
-Public Water System Supervision (PWSS)	\$102.0	\$109.7	\$102.0	\$102.0	\$102.0
-Pollution Control (Sec.106)	\$230.8	\$249.2	\$230.8	\$230.8	\$230.8
Monitoring Grants	\$17.8	\$18.5	\$17.8	\$17.8	\$17.8
Other Activities	\$213.0	\$230.7	\$213.0	\$213.0	\$213.0
-Wetlands Program Development	\$14.7	\$19.7	\$14.7	\$14.7	\$14.7

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113) and the accompanying “Explanatory Statement” submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

Note: The “—” denotes no breakout of subaccount activities.

- a. The “Explanatory Statement” accompanying the FY2016 Consolidated Appropriations Act specified \$210.4 million for “Water Quality Protection” for FY2016, the same as enacted for FY2015, and further states that “the Agency shall allocate funds consistent with fiscal year 2015.” *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), p. H10222, <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. The FY2015 enacted appropriation of \$2.2 million for activities under WIFIA was specified in the *Congressional Record*, vol. 160, no. 151 (December 11, 2014), p. H9767, <https://www.gpo.gov/fdsys/pkg/CREC-2014-12-11/pdf/CREC-2014-12-11-bk2.pdf>. The \$4.4 million proposed by the House Appropriations Committee is as specified in the committee report, H.Rept. 114-170 (p. 54); the \$5.0 million proposed by the Senate Appropriations Committee is as specified in its report, S.Rept. 114-70 (p. 53).

Categorical Grants

P.L. 114-113 appropriated \$1.08 billion for FY2016 to support state and tribal “categorical grant” programs within the STAG account, \$81.4 million (7.0%) below the President’s FY2016 request of \$1.16 billion but \$26.7 million (2.5%) above the FY2015 enacted appropriation of \$1.05 billion. The \$108.0 million (10.2%) proposed increase above the FY2015 enacted level included in the President’s FY2016 request for the categorical grants within STAG account was larger in dollar terms than proposed increases for the other EPA appropriations accounts, with the exception of the EPM account.

Funds appropriated for “categorical” grants are allocated among multiple grant programs for various activities within a particular media program (air, water, hazardous waste, etc.) and are generally used to support the states’ day-to-day implementation of environmental laws, including a range of activities such as monitoring, permitting, standard setting, training, and other pollution control and prevention activities. These grants also assist multimedia projects such as pollution prevention incentive grants, pesticides and toxic substances enforcement, the tribal general assistance program, and environmental information.

Table 7 below provides a comparison of the FY2016 enacted appropriations in P.L. 114-113 with the levels proposed in H.R. 2822 and S. 1645 as reported, the President’s FY2016 request, and FY2015 enacted levels.

Table 7. Appropriations for Categorical Grants within the State and Tribal Assistance Grants (STAG) Account: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted
(millions of dollars, not adjusted for inflation)

STAG Account Categorical Grant Program Area	FY2015 Enacted P.L. 113-235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114-113
Beaches Protection	\$9.5	\$0.0	\$0.0	\$9.5	\$9.5
Brownfields	\$47.7	\$49.5	\$47.7	\$47.7	\$47.7
Environmental Information	\$9.6	\$25.3	\$9.6	\$9.6	\$9.6
Hazardous Waste Financial Assistance	\$99.7	\$99.7	\$99.7	\$99.7	\$99.7
Lead	\$14.0	\$14.0	\$14.0	\$14.0	\$14.0
Nonpoint Source (CWA Sec. 319)	\$159.3	\$164.9	\$159.3	\$164.9	\$164.9
Pesticides Enforcement	\$18.0	\$18.0	\$18.0	\$18.0	\$18.0
Pesticides Program Implementation	\$12.7	\$13.2	\$12.7	\$12.7	\$12.7
Pollution Control (CWA Sec. 106)	\$230.8	\$249.2	\$230.8	\$230.8	\$230.8
<i>Monitoring Grants</i>	\$17.8	\$18.5	\$17.8	\$17.8	\$17.8
<i>Other Activities</i>	\$213.0	\$230.7	\$213.0	\$213.0	\$213.0
Pollution Prevention	\$4.8	\$4.8	\$4.8	\$4.8	\$4.8
Public Water System Supervisions (PWSS)	\$102.0	\$109.7	\$102.0	\$102.0	\$102.0
Radon	\$8.1	\$0.0	\$8.1	\$8.1	\$8.1
State and Local Air Quality Management	\$228.2	\$268.2	\$228.2	\$228.2	\$228.2
Toxic Substances Compliance	\$4.9	\$4.9	\$4.9	\$4.9	\$4.9
Tribal Air Quality Management	\$12.8	\$12.8	\$12.8	\$12.8	\$12.8
Tribal General Assistance Program (GAP)	\$65.5	\$96.4	\$65.5	\$65.5	\$65.5
Underground Injection Control (UIC)	\$10.5	\$10.5	\$10.5	\$10.5	\$10.5
Underground Storage Tanks	\$1.5	\$1.5	\$1.5	\$1.5	\$1.5
Wetlands Program Development	\$14.7	\$19.7	\$14.7	\$14.7	\$14.7
Multipurpose Grants	\$0.0	\$0.0	\$0.0	\$0.0	\$21.0
Total Categorical Grants	\$1,054.4	\$1,162.4	\$1,044.8	\$1,060.0	\$1,081.0

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113) and the accompanying "Explanatory Statement" submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

P.L. 114-113 provided \$21.0 million for a new categorical grant program, “Multipurpose Grants to States and Tribes.” As summarized in the Explanatory Statement⁶² accompanying the consolidated appropriations act, the program is intended to assist states and tribes with the implementation of environmental programs and to provide them the flexibility to direct the resources to high priority activities. EPA is directed to allocate these funds by a formula as to be determined by the agency.

As indicated in **Table 7**, P.L. 114-113 appropriated FY2016 funding for the beach protection program at the FY2015 enacted level of \$9.5 million, the same as the Senate committee-reported bill. The House committee had adopted the FY2016 request’s proposal to eliminate the grants for beach protection.⁶³ P.L. 114-113 and both committee-reported bills did not adopt the requested proposal to eliminate funding for radon grants for FY2016 and retained grant funding at the FY2015 level of \$8.1 million.⁶⁴

Environmental Remediation

Most of the federal statutes that EPA administers focus on preventing potentially harmful levels of pollution in order to protect human health and the environment. As a complement to this objective, some statutes also authorize EPA to address environmental contamination that occurred from past pollution prior to the establishment of regulatory requirements or present releases that may occur as a result of an accident or exceedance of permit requirements. Thousands of contaminated sites exist across the United States, ranging widely in terms of their size, complexity, level of hazard, and type and cause of the contamination. The states address the remediation of most contaminated sites under their own authorities, and the federal role generally focuses on higher risk sites elevated for priority federal attention and those located on federal lands.

The three principal EPA environmental remediation programs in terms of funding and national scope are the Superfund, Underground Storage Tank, and Brownfields programs.⁶⁵ The Superfund program addresses sites contaminated from releases of hazardous substances, pollutants, or contaminants into the environment but does not cover oil or petroleum products. Although EPA is responsible for coordinating the federal response to oil spills within the inland zone, the funding is administered by the U.S. Coast Guard from the Oil Spill Liability Trust Fund. The EPA Inland Oil Spill Response account primarily funds EPA emergency preparedness in the event of a spill.

⁶² See pp. H10220-H10221 in the “Explanatory Statement” submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161, no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>.

⁶³ The Administration’s rationale for proposing to terminate funding for the Beaches Protection categorical grant for FY2016 (and other recent fiscal years) was that non-federal agencies have the capacity to run their own programs as a result of 10 years of this federal assistance.

⁶⁴ The Administration asserted that the states had developed the technical expertise and procedures to continue these efforts without federal grant assistance. For more detailed discussion of the proposed elimination of these programs and other related terminations, reductions, see OMB, *Fiscal Year 2016 Budget of the United States: Cuts, Consolidations, and Savings*, <https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/ccs.pdf>. See brief overview descriptions of these and other terminations in EPA, *FY2013 Budget In Brief: Highlights of Major Budget Changes*, pp. 13-19, <https://www.epa.gov/planandbudget/archive>.

⁶⁵ Under the Solid Waste Disposal Act (also referred to as the Resource Conservation and Recovery Act, or RCRA), EPA is authorized to enforce corrective actions against facility owners or operators to remediate contamination from hazardous wastes. EPA has delegated this enforcement role to most states. This enforcement role involves oversight of the performance of corrective actions by facility owners or operators at their expense and does not involve EPA funding to carry out these actions.

(Funding for this account is presented in **Table 2** under “Comparison of EPA’s FY2016 Enacted, FY2016 Proposed, and FY2015 Enacted Funding by Appropriations Account.”) The Underground Storage Tank program focuses on the remediation of petroleum leaked from underground tanks but also addresses leak detection and prevention for tanks that store either petroleum or hazardous substances. The Brownfields program addresses the remediation of sites contaminated with hazardous substances or petroleum and generally focuses on lower risk sites not addressed under the Superfund or Underground Storage Tank programs.

Superfund

The Hazardous Substance Superfund account (hereinafter referred to as the Superfund account) supports the assessment and remediation of contaminated sites administered under EPA’s Superfund program.⁶⁶ CERCLA authorized this program and established the Superfund Trust Fund to finance discretionary appropriations to fund it.⁶⁷ As indicated in **Table 8**, P.L. 114-113 included a total of \$1.09 billion for the Superfund account for FY2016 (prior to transfers to other EPA accounts), the same as the FY2015 enacted appropriations, but \$65.1 million (5.6%) below the total \$1.15 billion proposed in the President’s FY2016 request. The House committee-reported bill proposed the same total amount as enacted for FY2016, whereas the Senate committee-reported bill would have provided a total of \$1.11 billion for the Superfund account.

Funding levels for the Superfund account had declined each fiscal year since FY2010 until FY2014. Since FY2014, total annual appropriations for the account have remained constant (in nominal dollars) at a level of \$1.09 billion each fiscal year through FY2016. Prior to FY2010, Superfund appropriations had continued at an average level of approximately \$1.25 billion annually for over a decade, with the exception of \$600.0 million in supplemental funds for remedial actions provided for FY2009 in P.L. 111-5, the American Recovery and Reinvestment Act of 2009. (Total FY2009 enacted funding for the account was \$1.88 billion.)

CERCLA authorizes two types of cleanup actions at individual sites. Remedial actions are intended to address long-term risks to human health and the environment, whereas removal actions are intended to address more imminent hazards or emergency situations. In the Superfund cleanup process, removal actions may precede remedial actions to stabilize site conditions while remedial actions are developed and constructed. Only sites listed on the National Priorities List (NPL) are eligible for Superfund appropriations to pay for remedial actions, whereas removal actions may be funded with Superfund appropriations regardless of whether a site is listed on the NPL.⁶⁸ The pace of long-term cleanup efforts at many sites has raised concerns among some Members of Congress, states, and affected communities about the adequacy of funding for remedial projects.

Most of the funding within the Superfund account is allocated to the cleanup of sites that EPA has placed on the NPL. Debate regarding the sufficiency of funding for the Superfund program has centered primarily on the pace and adequacy of cleanup at these sites. The source of funding for

⁶⁶ Remediation (i.e., cleanup) may involve a range of measures to prevent potentially harmful levels of exposure to contamination and does not necessarily involve the physical cleanup or removal of all contamination in every instance. For example, cleanup measures (i.e., response actions) may include restricting access to contaminated areas, capping waste in place, or providing alternative water supplies.

⁶⁷ CERCLA (42 U.S.C. §9601 et seq.) requires responsible parties to pay for the cleanup of environmental contamination and authorizes the cleanup of sites where the responsible parties cannot pay or cannot be found. See CRS Report R41039, *Comprehensive Environmental Response, Compensation, and Liability Act: A Summary of Superfund Cleanup Authorities and Related Provisions of the Act*, by David M. Bearden.

⁶⁸ 40 C.F.R. §300.425(b).

the program has also been an issue. There has been some interest in reinstating Superfund taxes on industry to help support the Superfund Trust Fund.⁶⁹ Congress appropriates monies out of this trust fund to support EPA's Superfund program. The President's FY2016 budget request included a proposal to reinstate Superfund taxes beginning in tax year 2016 and ending in tax year 2025, which would have been subject to the enactment of reauthorizing legislation. Reauthorization legislation has been introduced, but not enacted, to date in each Congress since 1995.⁷⁰ P.L. 114-113 did not include language to reauthorize Superfund taxes.

Table 8. Appropriations for the Hazardous Substance Superfund Account: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted
(millions of dollars, not adjusted for inflation)

Program Area and Transfers to Other EPA Accounts	FY2015 Enacted P.L. 113-235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114-113
Remedial	\$501.0	\$539.6	\$515.5	\$520.6	\$501.0
Emergency Response and Removal	\$181.3	\$190.7	\$181.3	\$182.5	\$181.3
Federal Facilities (Oversight)	\$21.1	\$26.3	\$21.1	\$21.7	\$21.1
(EPA) Emergency Preparedness	\$7.6	\$7.8	\$7.6	\$7.8	\$7.6
Audits, Evaluations, & Investigations	\$9.9	\$8.5	\$8.5	\$8.5	\$9.9
Enforcement	\$166.4	\$173.3	\$160.4	\$166.2	\$166.4
Operations and Administration	\$128.1	\$137.3	\$125.5	\$130.0	\$128.1
Homeland Security	\$36.4	\$33.8	\$33.8	\$33.8	\$36.4
Other Program Areas	\$37.0	\$36.5	\$35.1	\$35.7	\$37.0
Total Superfund Account	\$1,088.8	\$1,153.8	\$1,088.8	\$1,106.8	\$1,088.8
-Transfer to Science and Technology	-\$18.8	-\$16.2	-\$16.2	-\$16.2	-\$18.8
-Transfer to Office of Inspector General	-\$9.9	-\$8.5	-\$8.5	-\$8.5	-\$9.9
Superfund Account After Transfers	\$1,060.0	\$1,129.2	\$1,064.1	\$1,082.1	\$1,060.0

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113) and the accompanying "Explanatory Statement" submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

P.L. 114-113 also did not include a restriction on funding for the development of Superfund financial responsibility requirements that the House Appropriations Committee had proposed. As reported, Section 427 of H.R. 2822 would have prohibited EPA from using any funds that would

⁶⁹ The Superfund tax consisted of two excise taxes—one on petroleum and one on chemical feedstocks—and a special environmental tax on corporate income. The authority to collect these taxes expired on December 31, 1995.

⁷⁰ In the 114th Congress, at least three bills have been introduced to reauthorize Superfund taxes, albeit with some differences in the tax structure among the bills (H.R. 2768, H.R. 2783, S. 2400).

be provided in that bill for the agency to “develop, propose, finalize, implement, enforce, or administer” Superfund financial responsibility requirements for facilities that manage hazardous substances. As reported, S. 1645 did not include a similar provision. Section 108(b) of CERCLA directed the President to identify the initial classes of facilities that would be subject to these requirements no later than December 11, 1983, and to promulgate the requirements *no earlier* than December 11, 1985.⁷¹ Section 108(b) stated that the purpose of the requirements is for facilities to “establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances.” Implementation of Section 108(b) is delegated to EPA by executive order, with the exception of transportation facilities delegated to the Department of Transportation.⁷²

Brownfields

EPA administers a separate Brownfields program to provide financial and technical assistance for the assessment and remediation of sites not addressed under the Superfund program and where the known or suspected presence of contamination may present an impediment to economic redevelopment or property reuse. Funding for EPA’s Brownfields program awards two different categories of grants, one competitive and one formula-based. Section 104(k) of CERCLA authorizes EPA to award competitive grants to state, local, and tribal governmental entities for the assessment and remediation of eligible brownfields sites, job training for site remediation workers, and technical assistance.⁷³ Nonprofit organizations may also be eligible for site-specific remediation grants subject to a determination by EPA based on certain statutory criteria and for job training and technical assistance grants. Section 128 authorizes EPA to award formula-based grants to help states and tribes enhance their own remediation programs.⁷⁴ Both types of grants are funded within the STAG account, whereas EPA’s expenses to administer the Brownfields program are funded within the EPM account.

Table 9 provides a comparative breakout of funding enacted and proposed for FY2016 and enacted for FY2015 within the EPM account for administrative expenses and within the STAG account for Section 104(k) grants and Section 128 grants. As indicated in **Table 9**, P.L. 114-113 included a total of \$153.3 million for EPA’s brownfields program in FY2016, including:

- \$25.6 million within the EPM account for program administrative expenses;
- \$80.0 million for Section 104(k) grants within the STAG account; and
- \$47.7 million for Section 128 grants also within the STAG account.

The total FY2016 enacted appropriations of \$153.3 million for the EPA brownfields program is the same amount as the total FY2015 enacted level, \$35.8 million (18.9%) less than the President’s FY2016 request of \$189.1 million, \$2.0 million (1.3%) less than the \$155.3 million included in the Senate committee-reported bill, but \$6.9 million (4.7%) more than the \$146.4 million proposed in the House committee-reported bill.

⁷¹ 42 U.S.C. §9608(b).

⁷² Executive Order 12580, “Superfund Implementation,” 52 *Federal Register* 2923, January 23, 1987.

⁷³ 42 U.S.C §9604(k).

⁷⁴ 42 U.S.C §9628.

Table 9. Appropriations for EPA's Brownfields Program by Account: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted

(millions of dollars, not adjusted for inflation)

Account/ Program Area	FY2015 Enacted P.L. 113- 235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114-113
State and Tribal Assistance Grants					
Section 104(k) Competitive Project Grants ^a	\$80.0	\$110.0	\$75.0	\$80.0	\$80.0
Section 128 Categorical Grants to States and Tribes ^b	\$47.7	\$49.5	\$47.7	\$47.7	\$47.7
Brownfields STAG Grant Total	\$127.7	\$159.5	\$122.7	\$127.7	\$127.7
Environmental Programs and Management					
EPA Administrative Expenses	\$25.6	\$29.6	\$23.7	\$27.6	\$25.6
Brownfields Program Total	\$153.3	\$189.1	\$146.4	\$155.3	\$153.3

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113) and the accompanying "Explanatory Statement" submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

Notes:

- a. Section 104(k) of CERCLA authorizes EPA to award competitive grants to eligible entities for the assessment or remediation (i.e., cleanup) of brownfields to prepare them for redevelopment or reuse, job training for site remediation workers, and technical assistance.
- b. Section 128 of CERCLA authorizes EPA to award grants to eligible states and tribes on a formula basis to establish or enhance their own remediation programs.

Leaking Underground Storage Tank (LUST) Program

As indicated in **Table 10** below, P.L. 114-113 included \$91.9 million for EPA from the Leaking Underground Storage Tank (LUST) Trust Fund for FY2016, the same as enacted for FY2015 and proposed in the House committee-reported bill but more than the \$91.5 million included in S. 1645 as reported and less than the President's FY2016 request of \$95.3 million. In addition to the funding appropriated from the trust fund for these activities, P.L. 114-113 also included \$11.3 million for FY2016 within the EPM account to support EPA staff and extramural expenses used for preventing releases from underground storage tanks (USTs),⁷⁵ the same as in the House and Senate committee-reported bills and enacted for FY2015 but slightly less than the FY2016 request of \$11.7 million. P.L. 114-113 included an additional \$1.5 million—the same as proposed

⁷⁵ On July 15, 2015, EPA promulgated regulations to update existing UST requirements and add new requirements for secondary containment and operator training as needed to implement provisions of the Energy Policy Act of 2005. See EPA, "Revising Underground Storage Tank Regulations—Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training," 80 *Federal Register* 41566, July 15, 2015, <https://www.gpo.gov/fdsys/pkg/FR-2015-07-15/pdf/2015-15914.pdf>.

for FY2016 in the House and Senate committee-reported bills, the President's request, and enacted for FY2015—within the STAG account for categorical grants to support state implementation of certain other UST leak prevention and detection regulations that are not eligible for LUST Trust Fund money.

Table 10. Appropriations for the Leaking Underground Storage Tank Program by Account: FY2015 Enacted, FY2016 President's Budget Request, House and Senate Committee-Reported H.R. 2822 and S. 1645, and FY2016 Enacted

(millions of dollars, not adjusted for inflation)

Account/Program Area	FY2015 Enacted P.L. 113- 235	FY2016 President's Request	FY2016 H.R. 2822	FY2016 S. 1645	FY2016 Enacted P.L. 114-113
LUST Account					
-EPA Act Provisions	\$25.4	\$28.9	\$25.4	\$25.4	\$25.4
Total LUST Account	\$91.9	\$95.3	\$91.9	\$91.5	\$91.9
EPM Account					
Underground Storage Tanks (LUST/UST)	\$11.3	\$11.7	\$11.3	\$11.3	\$11.3
STAG Account					
Categorical Grant: UST	\$1.5	\$1.5	\$1.5	\$1.5	\$1.5

Source: Prepared by CRS. FY2016 enacted and requested and FY2015 enacted appropriations are as presented in the Consolidated Appropriations Act, 2016 (P.L. 114-113) and the accompanying "Explanatory Statement" submitted by the chairman of the House Committee on Appropriations in the *Congressional Record*, vol. 161 no. 184-Book III (December 17, 2015), <https://www.gpo.gov/fdsys/pkg/CREC-2015-12-17/pdf/CREC-2015-12-17-house-bk3.pdf>. House and Senate committee-reported amounts for FY2016 below the account level are as reported in H.Rept. 114-170 and S.Rept. 114-70. Numbers may not add up due to rounding.

Congress originally established the LUST Trust Fund to provide a source of federal funds for EPA and the states to address releases of petroleum from underground storage tanks (USTs). EPA and the states (through cooperative agreements) use appropriated LUST funds primarily to oversee and enforce LUST remediation activities conducted by responsible parties.⁷⁶ Funds are also used to take emergency actions to respond to petroleum releases that may present more immediate risks, remediate long-term risks at abandoned tank sites where there are no viable responsible parties, and pursue cost recovery actions against the responsible parties to enforce their liability. The trust fund is supported by a 0.1 cent-per-gallon motor fuels tax.

The Underground Storage Tank Compliance Act (Subtitle B, Title XV of the Energy Policy Act of 2005, P.L. 109-58, or EPA Act 2005) expanded the leak prevention and detection provisions in the UST regulatory program and imposed additional responsibilities on the states and EPA, such as requiring states to inspect all tanks every three years. Prior to EPA Act, the use of appropriations from the LUST Trust Fund had been limited to responding to petroleum releases. EPA Act broadened the authorized uses of the fund to support EPA and state implementation of the UST requirements to prevent and detect releases of petroleum or hazardous substances from underground storage tanks.

⁷⁶ As amended, Subtitle I of the Solid Waste Disposal Act (42 U.S.C. §§6991-6991m) authorizes the use of the LUST Trust Fund.

Congress now appropriates monies from the LUST Trust Fund both to support responses to petroleum releases from underground storage tanks and to prevent and detect leaks of petroleum or hazardous substances from underground storage tanks. Prior to EPAct, these latter activities had been funded through UST categorical grants in EPA's STAG account with annual appropriations from the General Fund of the U.S. Treasury. As noted above, a very small portion of the total UST program funding is now derived from the General Fund. Remediation of hazardous substance leaks may be addressed under the Superfund program.

Since FY2012, the balance of the LUST Trust Fund has declined at a greater rate than annual appropriations because of transfers to the Highway Trust Fund (HTF). These transfers increased the funds available for appropriation for surface transportation projects, although they reduced the funds available for appropriation from the LUST Trust Fund to address releases from underground storage tanks. These transfers include:

- a transfer of \$2.4 billion in FY2012 authorized in the Moving Ahead for Progress in the 21st Century Act or MAP-21 (P.L. 112-141);

a transfer of \$1.0 billion in FY2014 authorized in the Highway and Transportation Funding Act of 2014 (P.L. 113-159); and

- a transfer of \$300 million in three \$100 million increments between FY2016 and FY2018 authorized in the Fixing America's Surface Transportation Act, or FAST Act (P.L. 114-94).

P.L. 114-94 also reauthorized the taxing authority for the LUST Trust Fund through September 30, 2022 (i.e., through the end of FY2022) at the same motor fuels tax rate of 0.1 cent per gallon.

The balance of the LUST Trust Fund had risen over time as annual receipts exceeded annual appropriations for many years. Prior to the transfer of monies to the HTF, the unappropriated balance of the LUST Trust Fund at the beginning of FY2012 was \$3.33 billion.⁷⁷ After accounting for subsequent transfers, new receipts, and appropriations, the Administration estimated an unappropriated balance of \$450.0 million in the LUST Trust Fund as of the beginning of FY2016.⁷⁸ However, the balance of the trust fund has continued to rise after the transfers to the HTF, as annual appropriations have continued to be less than annual receipts.

National (Congressional) Priorities and "Earmarks"

P.L. 114-113 included a total of \$26.8 million for "National Priorities" within the S&T and EPM accounts for FY2016, compared to a total of \$19.8 million proposed within the two accounts in H.R. 2822 as reported and a combined \$19.1 million proposed in S. 1645 as reported (see **Table 6**). The proposed amounts are above the \$16.8 million appropriated for FY2015. The FY2016 enacted appropriations also included \$20.0 million for "Targeted Airshed Grants" within the STAG account, the same as proposed in the House committee-reported bill and an increase above the \$15.0 million proposed in the Senate reported bill and the \$10 million appropriated in FY2015. These grants are to be "distributed on a competitive basis to non-attainment areas that EPA determines are ranked as the top five most polluted areas relative to annual ozone or particulate matter 2.5 standards" and are intended for "emission reduction activities deemed necessary for compliance with national ambient air quality standards and included in a State

⁷⁷ OMB, *Fiscal Year 2014 Budget of the U.S. Government*, Appendix, April 10, 2013, p. 1112, <https://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/epa.pdf>.

⁷⁸ OMB, *Fiscal Year 2017 Budget of the U.S. Government*, Appendix, February 9, 2016, p. 1153, <https://www.whitehouse.gov/sites/default/files/omb/budget/fy2017/assets/epa.pdf>.

Implementation Plan submitted to EPA.” Consistent with past Administrations’ budget requests, the President’s FY2016 budget did not include funding for projects appropriated by Congress referred to in the EPA FY2016 Congressional Justification as “Congressionally directed projects” within the S&T, EPM, and STAG appropriations accounts for FY2015.

Of the \$26.8 million for “National Priorities” included in the FY2016 consolidated appropriations, \$4.1 million was allocated within the S&T account for FY2016 for “Research: National Priorities.” These funds are to be used for competitive extramural research grants to support high-priority water quality and availability research of national scope by “not-for-profit organizations who often partner with the Agency.” The grants are to be independent of the Science to Achieve Results (STAR) grant program. The grants are subject to a 25% matching funds requirement.⁷⁹ An additional \$3.0 million was to be allocated as directed in the House Report (H.Rept. 114-170) accompanying H.R. 2822 as reported in the S&T account. The funds (including \$2.0 million for extramural funding) are for EPA to further its research on oil and gas development in the Appalachian Basin.⁸⁰ Also in the S&T account, \$7.0 million was provided for certification and compliance activities related to vehicle and engine emissions, of which the agency is directed to provide at least \$5.0 million in extramural resources.

The remaining \$12.7 million included in the FY2016 Consolidated Appropriations are to be allocated within the EPM account for FY2016 for “Environmental Protection: National Priorities.” These funds would be used for competitive grants to qualified not-for-profit organizations to provide rural and urban communities or individual private well owners with technical assistance to improve water quality or safe drinking water. The grants are subject to a 10% matching funds requirement (including in-kind contributions). Of the \$12.7 million proposed by the House committee, \$11.0 million was to be allocated for training and technical assistance on a national level or multi-state regional basis, and \$1.7 million was allocated for technical assistance to individual private well owners. Of the \$15.0 million proposed by the Senate Committee, \$13.0 million was to be allocated for assistance on a national and multi-state level and \$2.0 million for private well owners.⁸¹

Although Congress has dedicated funding for these “national” or “congressional” priorities, they have not been categorized as “earmarks” by the House or Senate generally because the language would not direct the funding to one specific entity or specific location, and the funding would be awarded on a competitive basis. Since the 112th Congress, the House and Senate Appropriations Committees have adhered to a moratorium as put forth by the leadership in both chambers generally precluding the inclusion of earmarks in annual enacted appropriations bills for FY2011 through FY2016.

While there is no consensus on a single earmark definition among all practitioners and observers of the appropriations process, in 2007 the Senate and House adopted separate definitions for purposes of implementing new earmark transparency requirements in their respective chambers.⁸² In the House rule, such a funding item is referred to as a “*congressional earmark* (or *earmark*),”

⁷⁹ H.Rept. 114-170, p. 50; and S.Rept. 114-70, p. 49.

⁸⁰ S.Rept. 114-70, p. 49.

⁸¹ H.Rept. 114-170, p. 52, and S.Rept. 114-70, p. 51.

⁸² See Senate Rule XLIV and House Rule XXI, clause 9. CRS Report RL34462, *House and Senate Procedural Rules Concerning Earmark Disclosure*, by Sandy Streeter, describes and compares the procedures and requirements in House and Senate rules. See also CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan S. Lynch; and CRS Report RS22867, *Earmark Disclosure Rules in the Senate: Member and Committee Requirements*, by Megan S. Lynch.

while in the Senate rule, it is referred to as a “*congressionally directed spending item* (or *spending item*).”⁸³

⁸³ In both cases, this refers to “a provision [in a measure or conference report] or report language included primarily at the request of a [Representative or] Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific state, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.” Senate Rule XLIV and House Rule XXI, clause 9.

Appendix A. Historical Funding Trends and Staffing Levels

The Nixon Administration established EPA in 1970 in response to growing public concern about environmental pollution, consolidating federal pollution control responsibilities that had been divided among several federal agencies. Over three decades following EPA's creation, Congress enacted an increasing number of environmental laws, as well as major amendments to these statutes.⁸⁴

Annual appropriations provide the funds necessary for EPA to carry out its responsibilities under these laws, such as the regulation of air and water quality, use of pesticides and toxic substances, management and disposal of solid and hazardous wastes, and cleanup of environmental contamination. EPA also awards grants to assist state, tribal, and local governments in controlling pollution in order to comply with federal environmental requirements and to help fund the implementation and enforcement of federal regulations delegated to the states.

Table A-1 presents FY2009 through FY2015 enacted appropriations for EPA by each of the nine accounts.

⁸⁴ For a discussion of these laws, see CRS Report RL30798, *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency*, coordinated by David M. Bearden.

Table A-1. Appropriations for the Environmental Protection Agency: FY2009-FY2015 Enacted

(millions of dollars not adjusted for inflation; enacted amounts include rescissions and supplemental appropriations)

Account/Activity	FY2009 Omnibus P.L. 111-8	FY2009 ARRA P.L. 111-5	FY2009 Total	FY2010 P.L. 111-88	FY2011 P.L. 112-10	FY2012 P.L. 112-74	FY2013 P.L. 113-6 (Post- Sequester)	FY2014 P.L. 113-76	FY2015 P.L. 113-235
Science and Technology									
—Base Appropriations	\$790.1	\$0.0	\$790.1	\$848.1 ^a	\$813.5	\$793.7	\$743.8	\$759.2	\$734.6
—Transfer in from Superfund	+\$26.4	\$0.0	+\$26.4	+\$26.8	+\$26.8	+\$23.0	+\$21.7	+\$19.2	+\$18.8
Science and Technology Total	\$816.5	\$0.0	\$816.5	\$874.9	\$840.3	\$816.7	\$765.5	\$778.4	\$753.5
Environmental Programs and Management	\$2,392.1	\$0.0	\$2,392.1	\$2,993.8	\$2,756.5	\$2,678.2	\$2,512.1	\$2,624.1	\$2,613.7
Hazardous Waste Electronic Manifest Fund	NA	NA	NA	NA	NA	NA	NA	\$3.7	\$3.7
Office of Inspector General									
—Base Appropriations	\$44.8	\$20.0	\$64.8	\$44.8	\$44.7	\$41.9	\$39.7	\$41.8	\$41.5
—Transfer in from Superfund	+\$10.0	\$0.0	+\$10.0	+\$10.0	+\$10.0	+\$9.9	+\$9.4	+\$9.9	+\$9.9
Office of Inspector General Total	\$54.8	\$20.0	\$74.8	\$54.8	\$54.7	\$51.8	\$49.1	\$51.8	\$51.4
Buildings & Facilities	\$35.0	\$0.0	\$35.0	\$37.0	\$36.4	\$36.4	\$34.5	\$34.5	\$42.3
Hazardous Substance Superfund (before transfers)	\$1,285.0	\$600.0	\$1,885.0	\$1,306.5	\$1,280.9	\$1,213.8	\$1,115.2	\$1,088.8	\$1,088.8
—Transfer out to Office of Inspector General	-\$10.0	\$0.0	-\$10.0	-\$10.0	-\$10.0	-\$9.9	-\$9.4	-\$9.9	-\$9.9
—Transfer out to Science and Technology	-\$26.4	\$0.0	-\$26.4	-\$26.8	-\$26.8	-\$23.0	-\$21.7	-\$19.2	-\$18.8
Hazardous Substance Superfund (net after transfers)	\$1,248.6	\$600.0	\$1,848.6	\$1,269.7	\$1,244.2	\$1,180.9	\$1,084.0	\$1,059.6	\$1,060.0
Leaking Underground Storage Tank Trust Fund Program	\$112.6	\$200.0	\$312.6	\$113.1	\$112.9	\$104.1	\$103.4	\$94.6	\$91.9
Inland Oil Spill Program (formerly Oil Spill Response)	\$17.7	\$0.0	\$17.7	\$18.4	\$18.3	\$18.2	\$17.3	\$18.2	\$18.2
State and Tribal Assistance Grants (STAG)									

Account/Activity	FY2009	FY2009	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015
	Omnibus	ARRA					P.L. 113-6 (Post-Sequester)		
	P.L. 111-8	P.L. 111-5	Total	P.L. 111-88	P.L. 112-10	P.L. 112-74		P.L. 113-76	P.L. 113-235
—Clean Water State Revolving Fund	\$689.1	\$4,000.0	\$4,689.1	\$2,100.0	\$1,522.0	\$1,466.5	\$1,851.1	\$1,448.9	\$1,448.9
—Drinking Water State Revolving Fund	\$829.0	\$2,000.0	\$2,829.0	\$1,387.0	\$963.1	\$917.9	\$956.3	\$906.9	\$906.9
—Special (Congressional) Project Grants	\$145.0	\$0.0	\$145.0	\$156.8	\$0.0	\$0.0	\$0.0	\$0.0	\$10.0
—Categorical Grants	\$1,094.9	\$0.0	\$1,094.9	\$1,116.4	\$1,104.2	\$1,088.8	\$1,032.0	\$1,054.4	\$1,054.4
—Brownfields Section 104(k) Grants	\$97.0	\$100.0	\$197.0	\$100.0	\$99.8	\$94.8	\$89.9	\$90.0	\$80.0
—Diesel Emission Reduction Grants	\$60.0	\$300.0	\$360.0	\$60.0	\$49.9	\$30.0	\$18.9	\$20.0	\$30.0
—Other State and Tribal Assistance Grants	\$53.5	\$0.0	\$53.5	\$50.0	\$19.9	\$15.0	\$14.2	\$15.0	\$15.0
State and Tribal Assistance Grants Total	\$2,968.5	\$6,400.0	\$9,368.5	\$4,970.2	\$3,758.9	\$3,612.9	\$3,962.4	\$3,535.2	\$3,545.2
Rescissions of Unobligated Balances ^b	-\$10.0	\$0.0	-\$10.0	-\$40.0	-\$140.0	-\$50.0	-\$50.0	\$0	-\$40.0
Total EPA Accounts	\$7,635.7	\$7,220.0	\$14,855.7	\$10,291.9^a	\$8,682.1	\$8,449.4	\$8,478.4	\$8,200.0	\$8,139.9

Source: Prepared by CRS using the most recent information available from House, Senate, or conference committee reports accompanying the annual appropriations bills that fund EPA and Administration budget documents, including the President's annual budget requests as presented by the Office of Management and Budget, EPA's accompanying annual congressional budget justifications, and EPA's FY2013 operating plan submitted to the House and Senate Appropriations Committees. "ARRA" refers to the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). The ARRA amounts do not reflect rescission of unobligated balances as per P.L. 111-226. Numbers may not add due to rounding.

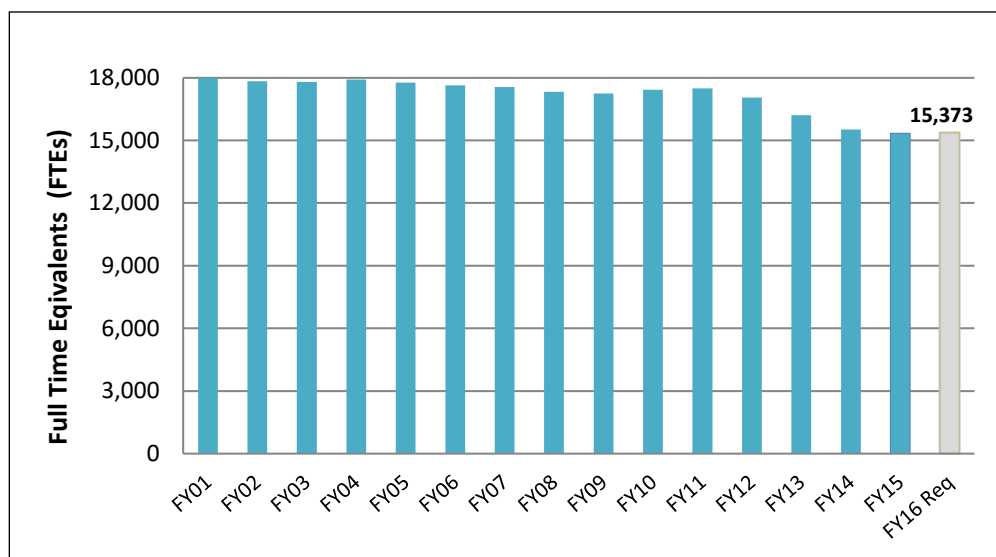
Notes:

- FY2010 amounts presented for the base appropriations for the S&T account and the EPA total include \$2.0 million in supplemental appropriations for research of the potential long-term human health and environmental risks and impacts from the releases of crude oil and the application of chemical dispersants and other mitigation measures under P.L. 111-212, Title II.
- The FY2009-FY2010 rescissions are from unobligated balances from funds appropriated in prior years within the eight accounts and made available for expenditure in a later year. In effect, these "rescissions" increase the availability of funds for expenditure by the agency in the years in which they are applied, functioning as an offset to new appropriations by Congress. With regard to the FY2011 enacted rescissions, Section 1740 in Title VII of Division B under P.L. 112-10 refers only to "unobligated balances available for 'Environmental Protection Agency, State and Tribal Assistance Grants'" (not across all accounts) and does not specify that these funds are to be rescinded from prior years. For FY2012 enacted, under the administrative provisions in Division E, Title II, of P.L. 112-74, unobligated balances from the STAG (\$45.0 million) and the Hazardous Substance Superfund (\$5.0 million) accounts would be rescinded. FY2012 rescissions specified within the STAG account include \$20.0 million from categorical grants, \$10.0 million from the Clean Water SRF, and \$5.0 million each from Brownfields grants, Diesel Emission Reduction Act grants, and Mexico Border. The rescission included for FY2013 in H.R. 6091 and the President's FY2013 request would be from prior years' unobligated balances within the STAG account.

EPA Staff Levels

Figure A-1 below presents a trend in EPA’s authorized “full-time equivalent” (FTE)⁸⁵ employment ceiling from FY2001 through FY2015 and as requested for FY2016 as reported in the EPA FY2016 Congressional Justification. The President’s FY2016 request proposed a total of 15,373 FTEs. EPA reported that the FY2015 enacted level of 15,335 FTEs was the lowest since FY1989.⁸⁶ Information prior to FY2001 is available on EPA’s budget and planning website at <http://www2.epa.gov/planandbudget/budget>. In March 2000, the Government Accountability Office (GAO)⁸⁷ had reported that EPA FTEs increased by about 18% from FY1990 through FY1999, with the largest increase (13%, from 15,277 to 17,280 FTEs) occurring from FY1990 through FY1993. GAO indicated that from FY1993 through FY1999, EPA’s FTEs grew at a more moderate rate of less than 1% per year.

Figure A-1. EPA’s Reported Authorized Full Time Equivalent (FTE) Employment Ceiling, FY2001-FY2015 and FY2016 Requested



Source: Prepared by CRS as adapted from EPA’s “FY2016 EPA Budget in Brief,” see “Overview,” p. 11, <http://www2.epa.gov/planandbudget/fy2016>.

Notes: FTE is defined as one employee working full time for a full year (52 weeks x 40 hours = 2,080 hours) or the equivalent hours worked by several part-time or temporary employees. The requirements for reporting FTE employment in the President’s budget are prescribed in Section 85 of OMB Circular No. A-11 on “Estimating Employment Levels and the Employment Summary (Schedule Q),” https://www.whitehouse.gov/sites/default/files/omb/assets/a11_current_year/s85.pdf.

⁸⁵ FTE employment is defined as one employee working full-time for a full year (52 weeks X 40 hours = 2,080 hours), or the equivalent hours worked by several part-time or temporary employees.

⁸⁶ See historical EPA’s budget and spending at <http://www2.epa.gov/planandbudget/budget>.

⁸⁷ Testimony of Peter F. Guerrero, Director, Environmental Protection Issues, Resources, Community, and Economic Development Division, GAO, in U.S. Congress, Senate Committee on Appropriations, Subcommittee on VA, HUD, and Independent Agencies, *Human Capital: Observations on EPA’s Efforts to Implement a Workforce Planning Strategy*, GAO/T-RCED-00-129, March 23, 2000, <http://www.gao.gov/assets/90/81630.pdf>.

Appendix B. Descriptions of EPA's Nine Appropriations Accounts

From FY1996 to FY2013, EPA's funding had been requested by the Administration and appropriated by Congress under eight statutory accounts. A ninth account, Hazardous Waste Electronic Manifest System Fund, was added during the FY2014 budget process. The Hazardous Waste Electronic Manifest Establishment Act (P.L. 112-195) authorized the development of an electronic system to track hazardous waste shipments and a fund to finance it that would be supported with start-up appropriations and user fees thereafter.⁸⁸ Table B-1 describes the scope of the programs and activities funded within each of these accounts. Prior to FY1996, Congress appropriated funding for EPA under a different account structure, making it difficult to compare funding for the agency historically over time by the individual accounts.

Table B-1. EPA's Nine Appropriations Accounts

Science and Technology (S&T): The S&T account incorporates elements of the former Research and Development account that was in place until FY1996. The S&T account funds the development of the scientific knowledge and tools necessary to inform EPA's formulation of pollution control regulations, standards, and agency guidance. EPA carries out research activities at its own laboratories and facilities and also through contracts, grants, and cooperative agreements with other federal agencies, state and local governments, nonprofit organizations, universities, and private businesses. Congress appropriates funds directly to the S&T account and transfers additional funds from the Hazardous Substances Superfund account to the S&T account specifically to support research related to the cleanup of hazardous substances.

Environmental Programs and Management (EPM): The EPM account funds a broad range of activities involved in EPA's development of pollution control regulations and standards and enforcement of these requirements across multiple environmental media, such as air quality and water quality. The EPM account also funds technical assistance to pollution control agencies and organizations and technical assistance to help regulated entities achieve compliance with environmental requirements to avoid violations. Much of EPA's administrative and operational expenses are funded within this account as well.

Hazardous Waste Electronic Manifest System Fund: P.L. 113-76 added a ninth account for FY2014, the Hazardous Waste Electronic Manifest System Fund. The Hazardous Waste Electronic Manifest Establishment Act (P.L. 112-195) authorized the development of an electronic system to track hazardous waste shipments and a fund to finance it that would be supported with start-up appropriations and user fees thereafter. The system would manage the tracking of such shipping manifests specifically for hazardous wastes designated under Subtitle C of the Resource Conservation and Recovery Act (RCRA)/Solid Waste Disposal Act.

Office of Inspector General (OIG): As amended, the Inspector General Act of 1978 established Offices of Inspector General in numerous federal agencies, including EPA. These offices are intended to conduct independent auditing, evaluation, and investigation of an agency's programs and activities to identify potential management and administrative deficiencies that may create conditions for instances of fraud, waste, and mismanagement of funds and to recommend actions to correct these deficiencies. Congress appropriates funds directly to EPA's OIG account and transfers additional funds from the Hazardous Substances Superfund account to the OIG account specifically to support the office's auditing, evaluation, and investigation of the Superfund program.

Buildings and Facilities: This account funds the construction, repair, improvement, extension, alteration, and purchase of fixed equipment and facilities owned or used by EPA.

⁸⁸ The system would manage the tracking of shipping manifests specifically for hazardous wastes designated under Subtitle C of the Resource Conservation and Recovery Act (RCRA)/Solid Waste Disposal Act. For FY2014, P.L. 113-76 created a dedicated statutory appropriations account consolidating funding that the President had requested within other existing EPA accounts for this purpose. See Title II of Division G in the Joint Explanatory Statement for the Consolidated Appropriations Act, 2014, as issued in the *Congressional Record*, vol. 160, no.9-Book II (January 15, 2014), pp. H977-H979 and H1010-1017, <http://www.gpo.gov/fdsys/pkg/CREC-2014-01-15/pdf/CREC-2014-01-15-house-bk2.pdf>.

Hazardous Substance Superfund: This account is funded by discretionary appropriations from a dedicated trust fund of the same name, the Hazardous Substance Superfund Trust Fund. As amended, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) established the Superfund program to clean up the nation's most threatening sites and created the Superfund Trust Fund to finance the program. Dedicated taxes on industry originally provided most of the revenues to the Superfund Trust Fund, but the taxing authority expired at the end of 1995. Congress now finances this trust fund mostly with revenues from the General Fund of the U.S. Treasury. EPA may use appropriations from the Superfund Trust Fund to enforce the liability of "potentially responsible parties" for the cleanup of contaminated sites, and if the parties cannot be found or cannot pay at a site, EPA may pay for the cleanup under a cost-share agreement with the state in which the site is located. Although the Superfund account also funds EPA's oversight of the cleanup of federal facilities by other agencies, these agencies fund the cleanup activities with separate funds appropriated directly to them, not with Superfund monies.

Inland Oil Spill Program (formerly Oil Spill Response): As authorized by the Oil Pollution Act of 1990, this account funds EPA's activities to prepare for and prevent releases of oil into the inland zone of the United States within the agency's jurisdiction. The U.S. Coast Guard has jurisdiction over oil spills in the coastal zone of the United States. EPA is reimbursed for its expenses to respond to oil spills at inland sites from the Oil Spill Liability Trust Fund, which is administered by the U.S. Coast Guard. The former name of the "Oil Spill Response" account was changed by the conferees as proposed in the President's FY2012 request to "Inland Oil Spill Program." This modification was intended to more clearly reflect the agency's jurisdiction for oil spill response in the inland coastal zone.

The Leaking Underground Storage Tank (LUST) Trust Fund Program: As with the Superfund account, this account is funded by discretionary appropriations from a dedicated trust fund of the same name, the LUST Trust Fund. The Superfund Amendments and Reauthorization Act of 1986 established this trust fund. The LUST Trust Fund is financed primarily by a 0.1 cent-per-gallon tax on motor fuels, authorized through FY2016. EPA may use appropriations from the LUST Trust Fund to pay for the prevention of, and response to, releases from underground storage tanks that contain petroleum, which is not covered under the Superfund program, as authorized in CERCLA. EPA and the states (through cooperative agreements) may use the funds to oversee corrective actions (i.e., cleanup) performed by the responsible parties, to conduct cleanups where a responsible party fails to do so or in case of an emergency, and to recover LUST monies spent on cleanup from the responsible parties. In addition to these activities, the Energy Policy Act of 2005 expanded the authorized uses of appropriated LUST monies to include implementation and enforcement of EPA's underground storage tank leak prevention and detection program under Subtitle I of the Solid Waste Disposal Act.

State and Tribal Assistance Grants (STAG): The majority of the funding within the STAG account is for capitalization grants for the Clean Water and Drinking Water State Revolving Funds (SRFs). SRF funding is used for local wastewater and drinking water infrastructure projects, such as construction of and modifications to municipal sewage treatment plants and drinking water treatment plants, to facilitate compliance with Clean Water Act and Safe Drinking Water Act requirements, respectively. The remainder of the STAG account funds other water infrastructure grants, categorical grants to states and tribes for administering numerous pollution control activities delegated by EPA, grants for the cleanup of brownfields, and diesel emission reduction grants. Although the majority of funding for grants awarded by EPA is funded within the STAG account, other agency accounts also fund various types of grants, such as the S&T and EPM accounts.

Source: Prepared by CRS based on statements of purpose of funding specified in the statutory language of EPA accounts in annual appropriations acts.

Appendix C. Congressional Hearings

Hearings Regarding EPA's FY2016 Budget Request:

House Committee on Energy and Commerce: Subcommittees on Energy and Power and Environment and the Economy

The Fiscal Year 2016 EPA Budget, February 25, 2015.

<http://energycommerce.house.gov/hearing/fiscal-year-2016-epa-budget>

House Committee on Appropriations: Subcommittee on Interior, Environment, and Related Agencies

Budget Hearing—Environment Protection Agency, February 26, 2015.

<http://appropriations.house.gov/calendararchive/eventsingle.aspx?EventID=393995>

Senate Committee on Environment and Public Works

Oversight hearing: Examining the President's budget request for the U.S. Environmental Protection Agency, March 4, 2015. <http://www.epw.senate.gov/public/index.cfm/hearings?ID=01067C9A-0F60-8C2F-302C-D4CE887F604E>

House Committee on Appropriations: Subcommittee on Interior, Environment, and Related Agencies

Public and Outside Witness Hearing—Interior, Environment and related Agencies, March 18, 2015.

<http://appropriations.house.gov/calendararchive/eventsingle.aspx?EventID=393958>

House Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment

The President's Fiscal Year 2016 Budget: Administration Priorities for the U.S. Environmental Protection Agency, March 18, 2015.

<http://transportation.house.gov/calendar/eventsingle.aspx?EventID=398705>

Senate Committee on Appropriations: Interior Environment and Related Agencies Subcommittee

Interior Subcommittee Hearing: FY16 Environmental Protection Agency Budget: Hearing to review the Fiscal Year 2016 funding request and budget justification for the Environmental Protection Agency, April 29, 2015.

<http://www.appropriations.senate.gov/hearings/interior-subcommittee-hearing-fy16-environmental-protection-agency-budget>

Appendix D. Funding Prohibitions Proposed in H.R. 2822 and S. 1645 as Reported but Not Retained in P.L. 114-113

As noted earlier in this report (see “EPA Regulations: Prohibitions/Restrictions on Use of FY2016 Appropriations”), relatively few of the administrative⁸⁹ and general provisions that would have restricted or prohibited the use of FY2016 funds proposed in the House and Senate committee-reported bills were retained in the Consolidated Appropriations Act, 2016 (P.L. 114-113). The proposed provisions, if enacted, would have generally restricted or prohibited the use of funds as appropriated in the bill (and in some cases “other Acts”) to carry out certain EPA activities (e.g., permitting), as well as requirements to conduct analyses and/or report on certain activities and funding expenditures across the various environmental pollution control statutes.

Some of these provisions were included in the initial House and Senate appropriations subcommittees’ recommendations, while others were added as amendments during full committee markup. Additionally, a number of provisions affecting EPA actions were among amendments introduced and adopted prior to the suspension of consideration of H.R. 2822 in the House on July 8, 2015. The majority of the prohibitions were in the form of general provisions under Title IV in both committee-reported bills, although some were included among the EPA administrative provisions in Title II of both committee-reported bills.

Directives and restrictions were also included in the reports (H.Rept. 114-170 and S.Rept. 114-70) accompanying the House and Senate committee-reported bills. For example, the House and Senate committee-reported bills would not have provided funding as requested within the S&T account for EPA hydraulic fracturing research activities in conjunction with the Departments of Energy and the Interior.⁹⁰ Within the EPM account, for example, the House committee report would not have provided funding for “EPA’s greenhouse gas rules for stationary sources” or for EPA’s Smart Growth Program.⁹¹ The Senate committee report did not include “the Administration’s requests for funding increases and for additional employees related to the Clean Power Plan.”⁹²

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⁸⁹ Administrative provisions generally set terms and conditions for the use of appropriated funds.

⁹⁰ H.Rept. 114-170, p. 50, and S.Rept. 114-70, p. 50.

⁹¹ H.Rept. 114-170, pp. 51, 54.

⁹² S.Rept. 114-70, p. 51.

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